VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

HEARINGS

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

**S. 1956, S. 2048, S. 2378, Amendment No. 1909 to S. 2378,
S. 2381, S. 2382, S. 2388, S. 2460, S. 2461, S. 2709,
S. 2380, S. 2747, Amendment No. 1984 to S. 2747,
and Related Bills**

JULY 13, AND 28, 1982

Printed for the use of the Committee on Veterans' Affairs

U.S. GOVERNMENT PRINTING OFFICE
99-661 O WASHINGTON : 1983

S761-3

COMMITTEE ON VETERANS' AFFAIRS

ALAN K. SIMPSON, Wyoming, *Chairman*

STROM THURMOND, South Carolina
ROBERT T. STAFFORD, Vermont
BOB KASTEN, Wisconsin
JEREMIAH DENTON, Alabama
FRANK H. MURKOWSKI, Alaska
ARLEN SPECTER, Pennsylvania

ALAN CRANSTON, California
JENNINGS RANDOLPH, West Virginia
SPARK M. MATSUNAGA, Hawaii
DENNIS DeCONCINI, Arizona
GEORGE J. MITCHELL, Maine

CONTENTS

TUESDAY, JULY 13, 1982

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

Page

Opening statement of Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs 1

Bill S. 1956, as referred to the Committee on Veterans' Affairs:
  Text of 3
  Agency report of the Veterans' Administration (No. 78, July 8, 1982) 8

Bill S. 2048, as referred to the Committee on Veterans' Affairs:
  Text of 11
  Statement of Hon. Alan Cranston, excerpt from the Congressional Record, February 2, 1982) 13
  Agency report of the Veterans' Administration (No. 74, May 3, 1982) 16

Bill S. 2378, as referred to the Committee on Veterans' Affairs:
  Text of 19
  Statement of Hon. Alan K. Simpson, excerpt from the Congressional Record, April 15, 1982) 32
  Amendment No. 1909, June 30, 1982 33
  Statements of Hon. Alan K. Simpson and Hon. Alan Cranston, excerpt from the Congressional Record, June 30, 1982 37

Text of bill S. 2381, as referred to the Committee on Veterans' Affairs 40

Text of bill S. 2382, as referred to the Committee on Veterans' Affairs 42

Text of bill S. 2388, as referred to the Committee on Veterans' Affairs 44

Bill S. 2460, as referred to the Committee on Veterans' Affairs:
  Text of 47
  Agency report of the Veterans' Administration (No. 85, August 18, 1982) 49

Bill S. 2461, as referred to the Committee on Veterans' Affairs:
  Text of 52
  Agency report of the Veterans' Administration (No. 86, August 20, 1982) 53

Text of bill S. 2709, as referred to the Committee on Veterans' Affairs 55

Testimony of:
  Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration, accompanied by Dr. William J. Jacoby, Deputy Chief Medical Director; Max Woodall, Director, Compensation and Pension Service; Robert O'Toole, Director, Loan Guaranty Service; Robert Carey, Director, Insurance Service; and John H. Thompson, Deputy Assistant General Counsel 62
  A panel of representatives of veterans' organizations consisting of John F. Sommer, Jr., deputy director, National Veterans Affairs and Rehabilitation Commission, The American Legion, accompanied by Paul S. Egan, deputy director, National Legislative Commission; John F. Heilman, National Legislative Director, Disabled American Veterans; and James N. Magill, special assistant, National Legislative Service, Veterans of Foreign Wars of the United States 91
  A panel of representatives of veterans' organizations consisting of R. Dennis Smurr, associate legislative director, Paralyzed Veterans of America; Ellsworth L. Sharpe, national president, Blinded Veterans Association; and Max J. Beilke, legislative counsel, the National Association for Uniformed Services 152

Testimony of—Continued

Page
- Barry McAlpine, doctor of chiropractic, accompanied by Bruce E. Nordstrom, doctor of chiropractic and executive vice president, International Chiropractors Association ... 178

Written statement of:

- Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs ... 58
- Hon. Robert T. Stafford, a U.S. Senator from the State of Vermont ... 60
- Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration ... 74
- John F. Sommer, Jr., deputy director, National Veterans Affairs and Rehabilitation Commission, The American Legion ... 97
- John F. Heilman, national legislative director, Disabled American Veterans ... 130
- James N. Magill, special assistant, National Legislative Service, Veterans of Foreign Wars of the United States ... 147
- R. Dennis Smurr, associate legislative director, Paralyzed Veterans of America ... 157
- Ellsworth L. Sharpe, national president, Blinded Veterans Association ... 168
- Max J. Beilke, legislative counsel, the National Association for Uniformed Services ... 174
- International Chiropractors Association ... 182
- American Chiropractic Association ... 232

Questions and answers:

- Response of the Veterans' Administration to written questions submitted by Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs ... 87

WEDNESDAY, JULY 28, 1982

VETERANS' EDUCATION AND EMPLOYMENT AMENDMENTS OF 1982

Opening statement of Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs ... 237

Bill S. 2380, as referred to the Committee on Veterans' Affairs:

- Text of ... 239
- Agency report of the Veterans' Administration (No. 59, February 22, 1982) ... 249

Bill S. 2747, as referred to the Committee on Veterans' Affairs:

- Text of ... 279
- Amendment No. 1984, July 21, 1982 ... 296

Testimony of:

- Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration, accompanied by June C. Schaeffer, Education Service, and James P. Kane, Assistant General Counsel ... 303
- Dr. Lawrence J. Korb, Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, Department of Defense ... 364
- William C. Plowden, Jr., Assistant Secretary of Labor for Veterans' Employment, Department of Labor, accompanied by Lawrence H. Brinker, Executive Assistant to the Assistant Secretary of Labor for Veterans' Employment, and Jim Marion of the Solicitor's Office ... 368
- Neil M. Singer, principal analyst, National Security and International Affairs Division, Congressional Budget Office, accompanied by Dan Huck and Edward Shephard ... 475
- A panel of representatives of veterans' organizations consisting of Philip R. Mayo, special assistant, National Legislative Service, Veterans of Foreign Wars of the United States, accompanied by Kim Graham; Paul S. Egan, deputy director, National Legislative Commission, accompanied by James G. Bourie, director, National Economics Commission, The American Legion; and Ronald W. Drach, national employment director, Disabled American Veterans, accompanied by Steve Edmiston, administrative assistant ... 489

Written statement of:

- Hon. Robert T. Stafford, a U.S. Senator from the State of Vermont ... 301
- Hon. Frank H. Murkowski, a U.S. Senator from the State of Alaska ... 302
- Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration ... 325
- William C. Plowden, Jr., Assistant Secretary of Labor for Veterans' Employment ... 404

Written statement of—Continued
Page
    Neil M. Singer, principal analyst, National Security and International Affairs Division, Congressional Budget Office 480
    Philip R. Mayo, special assistant, National Legislative Service, Veterans of Foreign Wars of the United States 497
    Paul S. Egan, deputy director, National Legislative Commission, The American Legion, and James G. Bourie, director, National Economics Commission, The American Legion 506
    Ronald W. Drach, national employment director, Disabled American Veterans 529
    Maurice E. Loir, legislative director, Military Order of the Purple Heart... 555
Questions and answers:
    Response to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, from:
        Veterans' Administration 342
        Department of Defense 368
        Department of Labor 412
        Disabled American Veterans 553
    Response to written questions submitted by Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs, from:
        Veterans' Administration 347
        Department of Labor 442
    Response of the Department of Labor to written questions submitted by Hon. George J. Mitchell, a U.S. Senator from the State of Maine 471
Letters to Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, from:
    Paul S. Egan, deputy director, National Legislative Commission, The American Legion, dated August 4, 1982 527
    Donald L. Harlow, executive director, Air Force Sergeants Association, dated August 3, 1982 559

APPENDIXES

Appendix A—Bill S. 2913, as reported by the Committee on Veterans' Affairs, without amendment, September 16, 1982 560
Appendix B—Excerpts from Senate Report No. 97-550 to S. 2913, September 17, 1982 605
Appendix C—Public Law 97-306, 97th Congress, October 14, 1982 828

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

TUESDAY, JULY 13, 1982

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 9:38 a.m., in room 412, Russell Office Building, Hon. Alan K. Simpson (chairman of the committee) presiding.

Present: Chairman Alan K. Simpson (presiding) and Senator Strom Thurmond.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, CHAIRMAN OF SENATE COMMITTEE ON VETERANS' AFFAIRS

Chairman SIMPSON. Good morning.

I welcome you all to the Senate Committee on Veterans' Affairs legislative hearing on the proposed cost-of-living increase for service-connected disability compensation and dependency and indemnity compensation [DIC].

We are here to receive testimony today on an interesting array of legislative matters. I again state, that, as chairman of the committee, I pledge my personal commitment to meet the needs of service-connected disabled veterans and the survivors of those who gave up their lives to defend this Nation.

Providing benefits for these individuals is the primary mission of the VA, and this committee should not lose sight of that priority. I fully realize that during the recent consideration of the Senate budget resolution, it was terribly difficult for veterans, their survivors and for even Members of Congress, sometimes, to understand what the circumstances were there. However, I worked very hard to focus on and maintain that original commitment.

I do wish to assure you that though the process has sometimes been blurred and blundered, the results have always revealed clear evidence of that purpose, a purpose which will be the same next year as it was this past year; to care, first, for the severely disabled service-connected veterans. Hopefully, resources will not become so lacking that distinctions will have to be made between degrees of the service-connected disabled—which as you all know was being considered as a compromise several months ago.

Fortunately for all veterans who receive VA compensation and for their survivors, we did not have to embrace such an approach.

I think we are all well aware that events have overtaken us in certain areas since S. 2378 was introduced through me, by request, in Congress last spring. Specifically, the cost-of-living allowance dictated by the rise in the Consumer Price Index has been reduced from 8.1 percent to 7.4 percent. The numbers will be readjusted when the committee marks up the bill. This reduction in the rate of inflation is of importance for the Government budget deficit and for the consumer.

With respect to S. 2378, I would appreciate it if you would confine your remarks to title I of the bill. As you know, title II, which would have achieved cost savings at the expense of service-connected disabled veterans, was rejected unanimously, early on, by the committee, and in its budget letter of March 8 of this year, it was so reported. Title III's cost-savings proposals will be later considered in a hearing 2 days from now, as we continue our cost-savings hearing. I do sincerely wish to have all witnesses restrict their remarks to 5 minutes. We have this red and green light designed to assist in that.

The bills, agency reports, and related materials will be inserted in the record at this point.

[The text of bills S. 1956, S. 2048, S. 2378, amendment No. 1909 to S. 2378, S. 2381, S. 2382, S. 2388, S. 2460, S. 2461, and S. 2709, agency reports thereon, and other related materials follow:]

II

97th CONGRESS
1st Session

S. 1956

To amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

IN THE SENATE OF THE UNITED STATES

December 15 (legislative day, November 30), 1981

Mr. Thurmond introduced the following bill; which was read twice and referred to the Committee on Veterans Affairs

---

A BILL

To amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 601 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) The term 'chiropractic services' means the manual manipulation of the spine performed by a chiropractor (who is licensed as such by the State in which he or she performs such services and who meets the uniform minimum standards promulgated for chiropractors under section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))) to correct a subluxation of the spine. For the purposes of this paragraph, such term does not include physical examinations, laboratory tests, radiologic services, or other tests or services determined by the Administrator to be excluded.".

(b)(1) Subchapter III of chapter 17 of such title is amended by adding at the end thereof the following new section:

"§ 629. Chiropractic services

"(a) The Administrator shall, under regulations which the Administrator shall prescribe, reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services, for which such veteran has made payment, if—

"(1) such chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,

"(2) the veteran is a veteran who has been furnished hospital care by the Veterans' Administration for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services, or

"(3) the veteran is a veteran described in section 612(f)(2) of this title who has been furnished hospital care or medical services by the Veterans' Administration for a neuromusculoskeletal condition of the spine, to the extent that such veteran is not entitled to such chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services.

"(b) In any case in which reimbursement may be made under this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable charge for such chiropractic services directly to the chiropractor who furnished such services.

"(c)(1) The Administrator shall, in consultation with appropriate public and nonprofit private organizations and other Federal departments and agencies that provide reimbursement for chiropractic services, establish a schedule of reasonable charges for such services, which schedule shall be consistent with the reasonable charges allowed under title XVIII of the Social Security Act (42 U.S.C. ch. 7).

"(2) The amount payable by the Administrator for chiropractic services furnished under this section shall not exceed $200 in any twelve-month period in the case of any veteran.

"(d) Notwithstanding any other provision of this title, total expenditures for chiropractic services reimbursed under this section shall not exceed $4,000,000 in any fiscal year and no reimbursement or payment may be made under this section for chiropractic services furnished after September 30, 1985.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 628 the following new item:

"629. Chiropractic services.".

SEC. 2. Not later than December 31, 1982, and not later than December 31 of each of the next three years thereafter, the Administrator of Veterans' Affairs shall prepare and submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports on the use made of the authority provided for in the amendments made by the first section. Each such report shall include—

(1) the number of requests by eligible veterans for reimbursement or payment for chiropractic services in the most recent fiscal year under section 629 of title 38, United States Code (as added by subsection (b)(1) of the first section), and the number of such veterans who made such requests;

(2) the number of reimbursements or payments made by the Administrator of Veterans' Affairs under such section in such fiscal year and the number of veterans to or for whom such reimbursements or payments were made; and

(3) the total amounts of expenditures by the Administrator of Veterans' Affairs for such reimbursements and payments under such section in such fiscal year.

[No. 78]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

JULY 8 - 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to respond to your request for the views of the VA on S. 1956, a bill "To amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans."

Based on professional, programmatic, and budgetary concerns, we oppose enactment of this bill.

S. 1956 would direct the VA's Administrator, under regulations he prescribes, to pay reasonable charges for chiropractic services furnished a veteran eligible for VA medical care providing the veteran meets one of the three following conditions:

1. the chiropractic treatment is for a service-connected neuromusculoskeletal condition of the spine;

2. the veteran had been furnished hospital care by the VA for a neuromusculoskeletal condition of the spine within the 12 months preceding the rendering of the chiropractic services; or

3. the veteran has a service-connected disability rated at 50% or more, and has previously been furnished care by the VA for a neuromusculoskeletal condition of the spine, but only to the extent that payment for the chiropractic services are not otherwise reimbursed.

Reimbursements would be made in accordance with a schedule of charges established by the Administrator in consultation with other Federal agencies and public and nonprofit organizations that reimburse for chiropractic services. The proposed VA schedule of reasonable charges is to be "consistent" with the reasonable charges allowed under the Medicare program. The reimbursements to individual veterans authorized by S. 1956 may not exceed $200 per year, and the overall appropriation authorized by this bill is $4 million per year. Unless later extended, no reimbursement under the bill's program could be made after September 30, 1985.

This bill presumably is based on the premise that the VA lacks the ability to give the full range of quality medical care to eligible veterans. We reject that premise. The Veterans Administration is required by law to provide a complete hospital and medical service for the care of veterans and to employ the services of licensed physicians who hold a degree of doctor of medicine or osteopathy from a college or university approved by the Administrator. The therapeutic capabilities of the existing VA medical staffs and consultants are comprehensive and flexible, and fully meet the needs of all veteran patients. It is especially felt that disorders of the musculoskeletal system are skillfully treated by our Orthopedic and Rehabilitation Medical Services and existing support personnel.

Enactment of this bill would create the undesirable precedent of permitting patient entry into the VA health care system without prior VA authorization and determination as to a veteran's need for treatment. We oppose as both fiscally wasteful and highly questionable from a therapeutic standpoint any open-ended system which would authorize the Government to pay chiropractic bills for chiropractic services only determined necessary by the veteran himself or the chiropractor. We generally look to orthopedic surgeons, neurosurgeons, neurologists or physiatrists, or combinations of them, to diagnose and treat eligible veterans afflicted with neuromusculoskeletal conditions of the spine, rather than chiropractors. Physical therapists, working under the supervision of such physicians, are also utilized by the VA in this endeavor. We note that there is already existing authority for a treating VA physician to refer a veteran eligible for VA medical treatment to a chiropractor for treatment on a fee basis, although concededly this authority is seldom, if ever, used. This bill, however, would authorize an open-ended program of fee basis chiropractic care for nonservice-connected veterans without any initial determination by VA as to the need for the chiropractic services. The VA under S. 1956 would be required to assume responsibility for care while having no involvement in determining the need for such care.

From both a health care and a fiscal perspective, it is our position, accordingly, that a veteran eligible for VA medical care for a neuromusculoskeletal condition of the spine who nevertheless presents himself to a chiropractor (or even to a private physician) without having been referred by the VA, should not be entitled to reimbursement for exercising his option to seek out a chiropractor.

It should be noted that we would not characterize chiropractic as "medical treatment." The proposed establishment of a new section 629 in chapter 17, however, would raise the question whether a veteran injured as a result of services rendered by a VA-reimbursed chiropractor has suffered an injury as the result of "medical or surgical treatment" within the meaning of 38 U.S.C. § 351 so as to be eligible for section 351 compensation benefits. An affirmative answer to that question could entail long-term indirect costs to the VA associated with the enactment of S. 1956. We would note also that Congress in November 1981 already enacted a section 629 in chapter 17 (on a different subject) in Pub. L. No. 97-72.

As a final point, we cannot ignore the very considerable administrative burden which would be involved in reimbursing each chiropractor's claim under the bill. Extensive processing would be required to meet the bill's conditions for reimbursement.

The VA strongly opposes this legislation for professional, programmatic, and budgetary reasons. We strongly oppose the initiation of a new program such as S. 1956 proposes when efforts are being made throughout the Government, including the VA, to bring under control the level of Federal expenditures.

It is estimated that the direct cost to the VA if S. 1956 were enacted would be approximately $4 million per fiscal year for a total of $16 million for the period through September 1985, when by its terms its program would expire.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

II

97TH CONGRESS
2D SESSION

S. 2048

To amend title 38, United States Code, to restore eligibility for burial benefits in the case of certain veterans of war whose bodies are not claimed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, JANUARY 25), 1982

Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to restore eligibility for burial benefits in the case of certain veterans of war whose bodies are not claimed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 902 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"(c)(1) For the purposes of this section, a deceased veteran of any war shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

"(A) there is no next of kin or other person claiming the body of such deceased veteran;

"(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

"(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

"(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.".

(b) The amendment made by this Act shall take effect with respect to deaths occurring after September 30, 1981.

[From the Congressional Record, vol. 128, No. 6, pp. S295-S296—Senate, Feb. 2, 1982]

ELIGIBILITY FOR BURIAL BENEFITS

Mr. CRANSTON. Mr. President, I am introducing today S. 2048, a bill to restore VA burial benefits in the cases of certain veterans of war whose bodies are not claimed. Joining with me in introducing this bill are Senators Randolph, Matsunaga, DeConcini, and Mitchell.

Mr. President, last year, pursuant to the requirement in the first concurrent resolution on the budget for fiscal year 1982 that the House and Senate Committees on Veterans' Affairs recommend legislative savings totaling $110 million in fiscal year 1982, the committees recommended certain reductions in the Veterans' Administration $300 burial benefit. Subsequently, the Congress approved legislation as part of the Omnibus Budget Reconciliation Act of 1981—Public Law 97-35—to restrict eligibility for this burial allowance to veterans who at the time of death are in receipt of either VA service-connected disability compensation or VA need-based, non-service-connected disability pension. Previously, this benefit was available for any veteran who died from a service-connected disability, who had been discharged from the service for a service-connected disability, or who had served at any time during a period of war. This restriction was made effective with respect to deaths occurring after September 30, 1981. No restrictions were placed on either the $150 plot allowance or on the $1,100 allowance that is payable, in lieu of the $300 benefit and the plot allowance, to the survivors of a veteran who dies from a service-connected disability.

According to the Congressional Budget Office, this legislation will result in savings of $75 million in fiscal year 1982. In my opinion, it was preferable to make the bulk of the required fiscal year 1982 savings by pruning this benefit—rather than benefits for living persons—in a way that is consistent with the priorities we place on veterans with service-connected disabilities and needy veterans of wartime service.

However, it should be remembered, Mr. President, that the Senate-passed provision—in the development of which I was deeply involved—retained eligibility for wartime veterans who, even though not in receipt of pension, would have met the VA pension income standards.

This eligibility for those who came to be known as pension-income eligibles was dropped in negotiations with the House because of the disproportionately high administrative cost associated with making income determinations retroactively. In fact, we were advised by the VA that, if enacted, this provision would result in total administrative costs that would exceed the total amount of benefits paid on that basis because each claim filed for benefits on that ground would have to be developed even though it was anticipated that few would be paid.

Last month, it was reported that in my home State of California, the bodies of 30 destitute veterans were being held in the Los Angeles County morgue because Federal funds were not available for their burials. On the basis of these reports, I was in touch with the VA and the county of Los Angeles, and although what I found was a problem significantly smaller than what had been reported in the press, the problem that potentially exists is a real one that should be addressed by remedial legislation. If it is not, a number of destitute wartime veterans will be relegated each year to a pauper's burial, which often means cremation with the remains placed in a common grave. It was to prevent this very result—the Nation's war veterans being subjected to pauper's burials—that VA burial benefits legislation was originally enacted.

Mr. President, at this time, I ask unanimous consent that there be printed in the Record a copy of a January 19 "white paper" I received from the VA regarding the status of the 30 bodies reported to be held in the Los Angeles morgue.

There being no objection, the document was printed in the Record, as follows:

DOCUMENT

Los Angeles Coroners office reported they are holding 400 unclaimed bodies.

Tentative identification has been made that 30 bodies may be those of veterans.

Of the 30, 12 have not been identified by the FBI as veterans.

The breakout for the remaining 18 is as follows:

1—Benefits paid.
5—Death prior to 10-1-81.
4—On C&P rolls at time of death.
1—Not eligible—death after 10-1-81 and not drawing benefits.
1—Not eligible had only Peacetime Service.

1—Not eligible because of Character of Discharge.
5—Awaiting service information and deaths prior to 10-1-81.
18—Total of known veterans.

JOHN W. HAGAN, Jr.,
Deputy Chief Benefits Director.

Mr. CRANSTON. Mr. President, based on these data, only one of the 30 bodies in the Los Angeles morgue was that of a veteran who had been made ineligible for burial benefits as a result of the provisions enacted in Public Law 97-35. Since that time, however, three additional, apparently impoverished, veterans have died who have been determined to be ineligible for burial benefits because of the new law. Just yesterday, in fact, a public funeral service was held for them in Los Angeles.

Mr. President, although the magnitude of the problem nationwide is not yet fully documented, other data from the VA suggests that this problem may also exist to a lesser extent in San Francisco as well as in other metropolitan areas.

I do not believe that any destitute wartime veteran should be denied a decent funeral. Clearly, our intent in preserving eligibility for VA pensioners was to provide for those who are needy. With respect to what appears to be a relatively small number of destitute wartime veterans who—for various reasons such as not meeting the total disability requirements, failure to meet a 90-day service requirement, or failure to make application—are not in receipt to make application—are not in receipt of VA need-based pension, we believe that a cost effective and compassionate approach to providing this benefit is possible.

Mr. President, the measure we are introducing today would address this problem by providing that a deceased veteran of any war—that is, as under pre-Reconciliation-Act law, an individual who served on active duty during a period of war and who was discharged under conditions other than dishonorable—would be deemed to have been in receipt of pension and thus eligible for the $300 burial benefit if a State, county, or city certifies to the VA that no next of kin or other person has claimed the veteran's body, if the State, county, or city has assumed the responsibility for the burial and funeral expenses of the veteran, and the amount of funds of resources available to the State, county, or city from other sources is insufficient to cover the burial and funeral expenses. In these cases, the State or political subdivision would be paid the lesser of $300 or the cost of the burial and funeral expenses actually incurred by it.

This measure, which would not restore benefits across the board and thus provide for the benefit for those who are not needy, would be retroactive with respect to deaths occurring after September 30, 1981, and address the problem of deceased, destitute veterans in an equitable fashion. Further, unlike the "pension-income eligible" criterion I discussed earlier, it would be a cost-effective approach since it would avoid the administrative cost associated with the VA making determinations of deceased veterans' incomes.

Although a formal cost estimate of our proposal has not yet been developed, I feel certain that it would be substantially less than the $12.4 million cost associated with the pension-income eligible approach, and for full restoration of burial benefits for all veterans.

Thus, Mr. President, what this legislation would accomplish—at a minimum cost—would be to help insure that VA burial benefits continue to serve the primary purpose for which they were enacted—that is, to provide assurance that wartime veterans, those who served the Nation in its hours of great need, are finally laid to rest with the dignity they earned.

Mr. President, we intend to press for early enactment of this amendment, and we hope others in this body who share our concerns will join with us in this effort.

I ask unanimous consent, Mr. President, that the text of the bill and document showing the changes it would make in existing law be printed at this point in the Record.

There being no objection, the bill and document were ordered to be printed in the Record, as follows:

CHANGES IN EXISTING LAW PROPOSED TO BE MADE BY S. 2048

[Delete material in brackets; add material in italics]

TITLE 38—VETERANS' BENEFITS

CHAPTER 23—BURIAL BENEFITS

§ 902. Funeral expenses

(a) When a veteran dies who was in receipt of compensation (or for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension, the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of the death of such veteran, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States, or of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organizaton's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

(c)(1) For the purposes of this section, a deceased veteran of any war shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

(A) there is no next of kin or other person claiming the body of such deceased veteran;

(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.

[No. 74]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

MAY 3 - 1982

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your requests for reports on two bills, S. 2019 and S. 2048, 97th Congress, that would affect the Veterans Administration burial benefits program. S. 2019 proposes to effectively repeal amendments to the program provided in section 2001 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357, 781, and restore authorization for payment of benefits which existed prior to October 1, 1981. S. 2048 would not restore authorization in this manner, but would provide for payment of burial benefits in certain cases of indigent wartime veterans who at death were not in receipt of disability compensation or pension.

For reasons set forth below, we oppose enactment of either bill.

Prior to enactment of Pub. L. No. 97-35, entitlement of up to $300 in funeral and burial expenses and a plot allowance of $150 (for burial in other than a national cemetery) was automatic for all wartime veterans, all veterans discharged from active service for disabilities incurred or aggravated in line of duty, or all veterans whose deaths resulted from service-connected disabilities. 38 U.S.C. §§ 902(a) and 903(b). (Since 1973, reimbursement of up to $1,100 for funeral and burial expenses for deaths resulting from service-connected disabilities has been available under section 907 of title 38 in lieu of benefits provided under these sections.)

As amended by Pub. L. No. 97-35, section 902(a) of title 38 now provides entitlement to the $300 burial and funeral-expense reimbursement only in cases of veterans who at death were in receipt of (or but for the receipt of retired pay were entitled to) compensation, or in receipt of pension. Entitlement to the $150 plot allowance was not so restricted, nor was any change made in VA's authority to defray expenses for deaths occurring in VA health-care facilities. Also unaffected was VA's authority to provide reimbursement in cases of deaths resulting from service-connected disabilities.

With the exception of some minor differences in wording, S. 2019 would restore eligibility provisions to their pre-Omnibus Budget Reconciliation Act form.

We see no justification for Congress to reverse itself in this manner. In considering various proposals (including S. 1062, 97th Congress) to achieve cost-savings, the Senate Budget Committee commented with regard to S. 1377, 97th Congress, that "the burial benefits program was born long ago out of a desire to avoid the burial of war veterans in 'potter's field'," and that, "[b]y generally restricting eligibility . . . this measure tends to a certain extent to restore the original intent behind this program while recognizing at the same time the need to direct the limited available funds to the most needy and to assist in achieving fiscal responsibility in the national interest." S. Rep. No. 139, 97th Cong., 1st Sess. 1018 (1981). VA's need-based pension recipients remain eligible under current standards, which fulfill this recent Congressional intendment.

Accordingly, the VA opposes enactment of S. 2019.

We estimate enactment of this bill would result in total additional costs of $81.3 million in FY 1983, with a total five-year cost of $434 million.

S. 2048 would amend the law by providing, for burial benefits purposes, that a deceased veteran of any war shall be "deemed" to be in receipt of pension at the time of death if a State or political subdivision thereof certifies in writing to the Administrator that (1) there is no next of kin or other person claiming the body of the deceased, (2) the State or political subdivision has assumed responsibility for the burial and funeral expenses, and (3) there is not available, other than from the State or political subdivision, an amount of resources sufficient to cover the burial and funeral expenses.

Our primary objection to enactment of this bill is that, notwithstanding some media reports, our experience with the burial of indigent veterans does not suggest a national problem of such magnitude as to warrant remedial legislation. A survey recently conducted by the VA indicated there were fewer than 600 claims for burial benefits involving unclaimed bodies of indigent veterans during 1981. Thus far in 1982 (as of February 18) the survey has indicated that only 50 such claims have been received.

Further, our research of State laws revealed that a substantial majority of States provide in one form or another, and in varying amounts, for burial and funeral expenses of indigent veterans. We believe that to be an appropriate State or local prerogative with respect to veterans who did not qualify for receipt of Federal compensation or pension benefits.

For the foregoing reasons, the VA opposes enactment of S. 2048.

We estimate its enactment would result in added benefit costs of less than $1 million in any fiscal year and administrative costs of less than $100,000 for any fiscal year.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report on S. 2019 and S. 2048 from the standpoint of the Administration's program.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

II

97TH CONGRESS
2D SESSION

S. 2378

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 13), 1982

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Disability

Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$63";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$116";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$175";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$251";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$355";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$446";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$563";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$653";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$734";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,222";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,517" and "$2,125", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,517";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,672";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,900";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,125";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$912" and "$1,359, respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,366"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$264".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$75";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$125";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$165";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$208" and "$41", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$51";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$93";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$133" and "$41", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$61";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$135"; and

(10) by striking out "$105" in clause (J) and inserting in lieu thereof "$114".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$330".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$449	W-4	$643
E-2	$463	O-1	$568
E-3	$473	O-2	$586
E-4	$504	O-3	$627
E-5	$518	O-4	$663
E-6	$530	O-5	$731
E-7	$556	O-6	$823
E-8	$586	O-7	$891
E-9	[1] $613	O-8	$976
W-1	$568	O-9	$1,049
W-2	$590	O-10	[2] $1,147
W-3	$608		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $659.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,230.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$52".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$135".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$67".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$227";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$325";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$421"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$421" and "$85", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$135";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$227"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$116".

TITLE II—COMPENSATION AMENDMENTS

SEC. 201. Section 3104 is amended by adding at the end thereof the following new subsection:

"(d) Where a rating of total disability based on individual unemployability resulting from service-connected disability has been assigned to any veteran in receipt of benefits under title II of the Social Security Act or any other Federal program providing monetary benefits for disability or retirement, compensation under section 314 or 315 of this title for any month beginning after September 30, 1983, shall not exceed the greater of—

"(1) the amount payable to the veteran on the basis of the veteran's rating under subpart B of part 4 of title 38, Code of Federal Regulations, or

"(2) the amount payable to the veteran on the basis of the veteran's rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under title II of the Social Security Act or such other Federal program.".

SEC. 202. Section 315, as amended by section 102 of this Act, is further amended by striking out "30 per centum," both places it appears and inserting in lieu thereof "50 per centum,".

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. Chapter 51 of title 38, United States Code, is amended—

(a) by inserting after section 3010 the following new section:

"§ 3011. Commencement of the period of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension shall not be made for any period prior to the first day of the calendar month following the month in which the award became effective as provided under such section 3010 or other provision of law.

"(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period prior to such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.", and

(b) by inserting in the table of sections at the beginning of such chapter, after the item relating to section 3010, the following new item:

"3011. Commencement of the period of payment based on an award.".

SEC. 302. Clause (2) of subsection (b) of section 3012 is amended by striking out "of the calendar year" and inserting in lieu thereof "of the month".

SEC. 303. Section 3020 is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this title, any payment of monetary benefits under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588) or section 521, 541, or 542 of this title shall be made only in an amount that is a multiple of $1.

"(2) In determining the amount of any such payment, the Administrator shall—

"(A) first determine the amount payable without regard to paragraph (1) of this subsection, and

"(B) if such amount is not a multiple of $1, then round such amount to the next lower multiple of $1.

"(3) The amount payable to a person under paragraph (1) of this subsection shall be considered as the amount of that person's monetary benefits for the purpose of all laws administered by the Veterans' Administration, and no person shall have any claim to the difference between the amount determined under clause (A) of paragraph (2) of this subsection and the amount payable under paragraph (1).".

SEC. 304. (a) Section 501 is amended by adding at the end thereof the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term 'child' shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term 'child' includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) of this section shall not apply to any child to or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 if such child has attained the age of eighteen years prior to October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112, or section 306(a) of Public Law 95-588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 or section 306(a) of Public Law 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the month of May 1982;

(B) not be paid for any month after July 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of August 1981 (or a later month if the Administrator deems a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after July 1982 and before August 1983, equal to 25 per centum of the benefit payable for August 1981 (or such later month);

(ii) during the months after July 1983 and before August 1984, equal to 50 per centum of the benefit payable for August 1981 (or such later month); and

(iii) during the months after July 1984 and before August 1985, equal to 75 per centum of the benefit payable for August 1981 (or such later month); and

(D) not be paid for any month after July 1982 if such pension or additional pension is discontinued at any time after July 31, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

TITLE IV—EFFECTIVE DATES

SEC. 401. (a) The amendments made by sections 301 and 303 of this Act shall take effect on July 1, 1982.

(b) The amendments made by title I and sections 202, 302, and 304(a) of this Act shall take effect on October 1, 1982.

(c) The amendment made by section 201 of this Act shall take effect on October 1, 1983.

(d) The provisions of subsections (b) and (c) of section 304 of this Act shall take effect upon the date of the enactment of this Act.

[From the Congressional Record, vol. 128, No. 41, pp. S3601-S3606—Senate, Apr. 15, 1982]

LEGISLATION RELATING TO VARIOUS VETERANS' PROGRAMS

* * * * * * *

Mr. President, I would wish to introduce * * * seven other bills by the request of the administration so that they may be before the Congress for its consideration. These bills are as follows:

First.[1] To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs; and for other purposes;

* * * * * * *

Third.[2] To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes;

Fourth.[3] To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots;

Fifth.[4] To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event a claim is filed late and to clarify that such proceeds may not escheat to a State; [and]

* * * * * * *

Seventh.[5] To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in case involving contested claims.

I emphasize that some of these measures reflect my own thinking while other reflect administration views.

* * * * * * *

---

[1] See S. 2378.

[2] See S. 2380 in the second day of this hearing.

[3] See S. 2381.

[4] See S. 2382.

[5] See S. 2388.

III

AMENDMENT NO. 1909

Purpose: To amend title 38, United States Code, to provide for a more uniform minimum-service requirement for entitlement to certain benefits as a result of active-duty service, and for other purposes.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

S. 2378

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs, and for other purposes.

June 30 (legislative day, June 8), 1982

Referred to the Committee on Veterans' Affairs and ordered to be printed

AMENDMENTS intended to be proposed by Mr. SIMPSON (for himself and Mr. CRANSTON)

Viz:

On page 13, between lines 17 and 18, insert the following new title:

"TITLE IV—MINIMUM-SERVICE REQUIREMENT

"SEC. 401. (a) Section 3103A is amended by—

"(1) redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"'(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"'(A) twenty-four months of continuous active duty, or

"'(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty.

"'(2) Paragraph (1) of this subsection applies—

"'(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"'(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

"'(3) Paragraph (1) of this subsection does not apply—

"'(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

"'(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.'; and

"(2) adding at the end the following new subsection:

"'(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.'.

"(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

"(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person is discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

"Sec. 402. Section 977 of title 10, United States Code, is superseded.".

On page 13, line 18, strike out "IV" and insert in lieu thereof "V".

On page 13, line 19, strike out "401" and insert in lieu thereof "501".

On page 14, line 2, insert "and of title IV" after "304".

[From the Congressional Record, vol. 128, No. 86, pp. S7741-S7742—Senate, June 30, 1982]

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

AMENDMENT NO. 1909

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. Simpson submitted an amendment intended to be proposed by him to the bill (S. 2378) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for cost-saving improvements in veterans' programs, and for other purposes.

MINIMUM ACTIVE-DUTY SERVICE REQUIREMENTS FOR BENEFITS ELIGIBILITY

Mr. CRANSTON. As ranking minority member of the Veterans' Affairs Committee, Mr. President, I am pleased to join in submitting amendment No. 1909 with my good friend, the committee chairman (Mr. SIMPSON). This legislation would provide for a more uniform minimum-service requirement for eligibility for Federal benefits based on active-duty service.

On September 7, 1980, section 977 of title 10, United States Code, was enacted—in the Department of Defense Authorization Act, 1981—to establish a general 2-year minimum-service requirement for eligibility for any Federal benefit, right, or privilege based on active-duty service for those who originally entered the service after September 7, 1980. I will refer to this provision simply as section 977.

Last year, in section 608 of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, enacted on October 17, as Public Law 97-66, Congress enacted as section 3103A of title 38, a provision I initiated in the Senate, which superseded—by replacing and modifying—section 977 insofar as eligibility for all benefits under title 38 or other laws administered by the Veterans' Administration is concerned.

Mr. President, in the House and Senate deliberations on the title 38 provision last year, three major problems in section 977 were identified and corrected in the title 38 provisions with respect to title 38 and VA benefits.

First, section 977 applies only to enlisted personnel in the Armed Forces; it does not apply to military officers or to commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration. With respect to title 38 and VA benefits, section 3103A of title 38 established a 2-year minimum-service requirement applicable to these officers as well as to enlisted personnel.

Second, section 977 made ineligible a 2-year enlistee who is discharged under section 1171 of title 10, which allows the Armed Forces to discharge a person from active service for the convenience of the Government up to 90 days prior to the expiration of that person's enlistment. The title 38 provision provided an exemption for those who receive such discharges.

Third, section 977 provided an exemption for those who have any service-connected disability, even those that are so minor as not to be rated even 10-percent disabling. The title 38 provision limited the exemption for those with service-connected disabilities to those who have compensable disabilities.

Mr. President, these changes with respect to title 38 and VA benefits, enacted in section 3103A of title 38, were designed to produce a fairer, more equitable minimum-service requirement.

However, in enacting in title 38 a replacement minimum-service requirement with these improvements, the Congress established one set of rules for title 38 and other VA benefits while leaving in place the other set in section 977 for all other benefits provided under Federal law based on active-duty service. Those other benefits include certain social security, civil service, naturalization, Federal Housing Administration, Small Business Administration, and Farmers Home Administration benefits.

In order to provide for a more uniform set of rules, our amendment would amend section 3104A of title 38 to provide a minimum-service requirement—superseding entirely the title 10 provision—for Federal benefits other than those that are provided under title 38 of administered by the VA, as well as for those that are. Our amendment would track closely the policies in the existing title 38 provision and thus would make the same three major improvements, which I discussed earlier, that the title 38 provision made last year in the rules governing title 38 and VA benefits eligibility.

Mr. President, our amendment would also make certain other clarifications and minor adjustments in the minimum-service requirement for non-VA/title 38 benefits. First, it would clarify, consistent with the Social Security Administration's interpretation of section 977, that the only Social Security Act benefit affected by the minimum-service requirement is that provided under section 229(a) of the Social Security Act, under which active-duty personnel are deemed to have been paid additional wages of $100 for each $300 of military pay, up to a maximum of $1,200 per year in deemed wages. Earned social security credits—those based on actual employment and wages and for which social security tax is paid—would be expressly exempted from the minimum-service requirement under our amendment.

Second, our amendment would clarify—consistent with preliminary information I have received regarding the Office of Personnel Management's interpretation of section 977—that the only civil service provisions affected by the minimum-service requirement are the veterans preference provisions other than those for veterans with compensable, service-connected disabilities. It should be noted that those who entered the service after September 7, 1980,who are not service-connected disabled do not qualify for veterans preference at the present time and will qualify in the future only if they serve during a war or in a campaign or expedition for which a campaign badge is authorized. Thus, the minimum-service requirement in section 977 and the superseding one we are proposing in title 38 would have effect on nondisabled veterans only in the event of some future outbreak of hostilities involving the U.S. Armed Forces.

With respect to the calculation of length of Federal service for purposes of retirement credits and the rate at which annual leave is accrued, our amendment would specify that active-duty personnel would not be barred by the minimum-service requirement from receiving credit for any period of time actually served on active duty. This result, the same as for the service of Federal employees regardless of the duration of their service, appears—though I have sought but not yet obtained clarification—to be consistent with the Office of Personnel Management's interpretation of section 977 of title 10.

I would also note that our amendment would expressly exclude unemployment compensation for ex-service-members—UCX—from the scope of the minimum-service requirement. The UCX provisions—subchapter II of chapter 85, title 5, United States Code—contain a specific minimum-service requirement that has been amended twice in the last 2 years, and it appears that a further amendment will be enacted this year. It is my understanding that the Department of Labor has not interpreted section 977 as applying to the UCX program. As an original cosponsor of a bill proposing such an amendment—S. 2028, introduced by Senator **Bradley** on January 28, 1982—I believe it is preferable to work out the UCX minimum-service requirement issues in legislation specifically dealing with that benefit in light of it unique purposes.

Mr. President, in preparation for the submission of this amendment, preliminary efforts were made to ascertain the specific manner in which various departments and agencies with responsibility for administering certain Federal benefits—provided by reason of active-duty service in the Armed Forces—are applying the provisions of section 977 with respect to non-VA, non-title 38 benefits. Full information has not yet been obtained in certain respects and a response to may request, made through the Congressional Research Service, to the Department of Labor has not yet been received but is expected shortly.

Mr. President, I ask unanimous consent that there be printed in the Record at the conclusion of my remarks a table, based on the preliminary information now available and on the provisions of section 977 and our amendment, setting forth a comparison between the existing and proposed provisions.

Mr. President, prior to the date scheduled for markup of the bill, S. 2378, that our proposal would amend—August 12, 1982—the Committee on Veterans' Affairs will seek full information from the departments and agencies from the departments and agencies concerned with respect to how they interpret and apply section 977 with respect to the programs they administer, as well as their views on our amendment. We will also be in touch with the Armed Services Committee to solicit their views and, I hope, to reach agreement on the provisions of the amendment. In addition, I understand that our amendment will be included among the subjects covered in our committee's July 13, hearing.

Thus, prior to the committee action on this amendment, we will make every effort to obtain all of the information and views that we should consider before making a final recommendation to the Senate on a fair and more uniform minimum-service requirement.

There being no objection, the table was ordered to be printed in the Record, as follows:

MINIMUM-SERVICE REQUIREMENTS: COMPARISON BETWEEN 10 U.S.C. 977 AND PROPOSED TITLE 38 PROVISION

	10 U.S.C. 977—Bar interpreted as applying?	Proposed title 38 provision—Bar applies?
Social Security:		
Deemed credits	Yes	Yes.
Earned credits	No	No.
Civil Service:		
Vets preference	Yes[1]	Yes.[1]
Length-of-service credit	Unclear[1]	No.
Famers Home Administration	Yes[1]	Yes.[1]
FHA	Yes	Yes.
SBA	Yes[3]	Yes.
Naturalization:		
Waiver for 3 years of service	No	Yes.
Waiver for vet of period of hostility	Unclear [1,2]	Yes.[1]
Bar applicable to Armed Forces officers and to PHS and NOAA officers?	No	Yes.
Exemption for up-to-90 days "early outs"?	No	Yes.
Exemption for service-connected disabled vets	Provided to those with any service-connected disability.	Limited to those with compensable disability.

---

[1] Applicable only to veterans of future period of war/armed conflict.

[2] Unclarified as of June 30, 1982.

[3] Not yet being applied.

II

97TH CONGRESS
2D SESSION

S. 2381

To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 13), 1982

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1819(a)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

"(G) To refinance existing liens which are secured of record on a mobile home unit owned and occupied by the veteran as the veteran's home, and simultaneously to purchase a lot on which such mobile home unit is or will be placed.".

SEC. 2. Section 1803(c)(3) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

"(E) to refinance indebtedness and purchase a mobile home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance indebtedness and cover the costs of necessary site preparation.".

II

97TH CONGRESS
2D SESSION

S. 2382

To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 13), 1982

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 770 of title 38, United States Code, is amended by—

(a) by amending subsection (c) by striking out the second sentence, and

(b) by adding at the end of the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

SEC. 2. The amendment made by this Act shall take effect on October 1, 1982.

II

97TH CONGRESS
2D SESSION

S. 2388

To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 13), 1982

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 718 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 of title 38, United States Code, is amended by—

(1) inserting "(a)" before "Any";

(2) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

II

97TH CONGRESS
2D SESSION

S. 2460

To amend title 38 of the United States Code to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from additional disabilities.

IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 13), 1982

Mr. RANDOLPH introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38 of the United States Code to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from additional disabilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (o) of section 314 of title 38, United States Code, is amended by striking out "60 per centum or more disabling" and inserting in lieu thereof the following: "20 per centum or more disabling, or the veteran has service-connected total deafness in one ear, or has suffered the anatomical loss or loss of use of a hand or of a foot.".

(b) Subsection (p) of section 314 of title 38, United States Code, is amended by striking out "in the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service-connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of $1,966.".

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first month after the date of the enactment of this Act.

[No. 85]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

AUGUST 18 1982

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

We are pleased to respond to your request for a report on S. 2460, 97th Congress. For the following reasons, the Veterans Administration is opposed to the bill's enactment.

The stated purpose of the bill is to provide eligibility for increased compensation benefits to certain blinded veterans who also suffer from additional disabilities. Because of the manner in which it is drafted, however, the scope of the proposed liberalization is questionable. For purposes of this report, I have presumed the drafters intend the amendment to be read conjunctively with the blindness requirement in current law, i.e., if a veteran suffers the requisite hearing loss or the anatomical loss or loss of use of a hand or foot, he or she must also suffer service-connected total blindness to qualify for the 38 U.S.C. § 314(o) rate of compensation. If that is so, an amendment would be necessary to assure that the hearing loss criteria are not misconstrued to be disjunctive criteria that by themselves confer entitlement.

I have also assumed the failure to specify that loss or loss of use of a hand or foot must be service connected was an intentional omission.

Currently, subsection 314(o) of title 38, United States Code, provides that if a veteran suffers multiple service-connected disabilities which meet the criteria for two or more of the rates provided in subsections (l) through (n) of section 314, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing loss in either one or both ears is service-connected) rated as 60 percentum or more disabling and the veteran has sustained service-connected total blindness with 5/200ths visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the rate of monthly compensation shall be $1,966.

The proposed measure would provide that the (o) level of monthly compensation shall be payable for service-connected total blindness associated with either (1) bilateral deafness (with the hearing loss in one or both ears adjudicated as service connected) rated as 20 percentum disabling, (2) service-connected total deafness in one ear, or (3) the anatomical loss or loss of use of a hand or foot. This would render obsolete that portion of subsection 314(p), language S. 2460 would delete.

Our major objection to the proposed measure is that it would elevate disability caused by blindness and moderate deafness in combination to a position disproportionately high in the compensation rate structure. Blindness in combination with severe deafness (that is 60 percent or more disabling) can be very incapacitating. However, blinded veterans with deafness only 20 percent disabling retain considerably greater ability to perceive their surroundings. It would be inequitable to equate total deafness in one ear (which is evaluated as only 10 percent disabling if hearing in the other ear is normal) plus total blindness with other standards for the (o) rate, such as total blindness associated with anatomical loss or loss of use of both feet.

We do not wish to denigrate in any way the seriousness of disablement resulting from blindness and hearing loss or anatomical loss or loss of use of a hand or foot. However, we do want to insure that the overall compensation schedule for the seriously disabled is not skewed by elevating any given combination of disabilities to an anomalous position within it.

We are also concerned that the bill would permit the nonservice-connected anatomical loss or loss of use of a hand or foot to be combined with service-connected total blindness to reach the (o) rate of monthly compensation. We have previously opposed such proposals. The overall system for compensating disabled veterans recognizes the greater national obligation owed those whose injuries or diseases are service-connected. This interjection of nonservice-connected disability as a criterion for determining the rate of compensation eligibility would compromise this fitting dichotomy of treatment and invite similar demands for special treatment with respect to other nonservice-connected disabilities.

Honorable Alan K. Simpson

We are of the opinion that the present statutory schedule of monthly compensation benefits makes adequate provision for the payment of VA allowances to those that suffer from service-connected blindness plus additional service-related disabilities. Accordingly, we oppose favorable consideration of S. 2460.

We have insufficient statistical data with which to provide a precise cost estimate for these proposals. However, it is assumed that in any fiscal year administrative costs would not exceed $100,000 and benefits costs would not be in excess of $1 million.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

II

97TH CONGRESS
2D SESSION

S. 2461

To amend title 38 of the United States Code to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from total blindness without light perception.

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, APRIL 13), 1982

Mr. RANDOLPH introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38 of the United States Code to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from total blindness without light perception.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 314(n) of title 38, United States Code, is amended by inserting "or has suffered total blindness without light perception in both eyes," after "anatomical loss of both eyes,".

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first month after the date of the enactment of this Act.

[No. 86]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

AUGUST 20 1982

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to respond to your May 7, 1982 request for a report on S. 2461, 97th Congress.

The bill proposes to increase the special monthly compensation payment to veterans suffering from service-connected total blindness without light perception to the rate specified in subsection 314(n) of title 38, United States Code. Currently, veterans with this level of visual disability receive special monthly compensation at the rate specified in subsection 314(m) of title 38.

The Veterans Administration supports the enactment of S. 2461.

The Veterans Administration is cognizant of the significant impact that visual disabilities have on the earning capacity of individuals. The Schedule for Rating Disabilities provides a wide-range of evaluations for various diseases and injuries affecting the eyes and ocular muscles based on diminution of visual acuity or loss of visual field. These evaluations which reflect, as far as practicable, the average impairment in earning capacity attributable to each of the delineated visual disabilities, are compensated at the basic rates found in subsections (a) through (j) of section 314 of title 38. In addition, certain severe visual disabilities standing alone are compensated without regard to their economic impact at the special rates found in subsections (l), (m), and (n) of section 314 because of their overwhelming nature.

Subsection (n) has statutorily required the anatomical loss of both eyes in order to qualify for the rate specified therein since its enactment (Pub. L. No. 79-182). In 1946, the Veterans Administration concluded that the level of disability presented by total blindness with no light perception when accompanied by certain additional conditions was more severe than that presented by the same disability with non-functioning otherwise healthy eyeballs in place. Thereafter, the Veterans Administration provided by regulation for payment at the subsection (n) rate when total blindness with no light perception is accompanied by phthisis bulbi, deformity, disfigurement or evisceration (38 C.F.R. § 3.350(f)(2)(iv)).

In light of the current statutory and regulatory provisions governing special monthly compensation payments for bilateral total blindness, we appreciate the need for statutory clarification of that portion of subsection (n) relating to blindness. Accordingly we favor the enactment of S. 2461.

We estimate the increased benefit cost of S. 2461, if enacted, to be less than $1 million per year and the increased general operating expense to be less than $100 thousand per year.

We were advised by the Office of Management and Budget in regard to a report to the Chairman of the House Committee on Veterans' Affairs on H.R. 6154, 97th Congress, a bill identical with S. 2461, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

John P. Murphy

For and in the absence of

ROBERT P. NIMMO
Administrator

II

97TH CONGRESS
2D SESSION

S. 2709

To amend title 38, United States Code, to correct a technical error with respect to entitlement to dependency and indemnity compensation.

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 8), 1982

Mr. SIMPSON (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to correct a technical error with respect to entitlement to dependency and indemnity compensation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 410(b)(1) of title 38, United States Code, is amended—

(1) by inserting "or entitled to receive" after "was in receipt of"; and

(2) by inserting "(or but for a clear and unmistakable error would have been)" after "(A) was".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to dependency and indemnity compensation payable for months after September 1982.

Chairman Simpson. Before introducing the witnesses, I would like to acknowledge the presence of Senator Thurmond, my chairman on the Judiciary Committee; a most extraordinary gentleman who handles myriad duties in this place. I marvel at his vigor and his enthusiasm as he meets every one of his commitments. I admire him greatly. Senator Thurmond.

Senator Thurmond. Thank you very much, Mr. Chairman, for your kind remarks which I don't deserve. I want to commend you for the great job you're doing in so many capacities here for our Nation.

Mr. Chairman, it is a pleasure to be here today to hear testimony concerning several compensation-related measures, including S. 2378, which provides for a cost-of-living increase in monthly compensation and dependency and indemnity compensation rates. As always, we have a distinguished list of witnesses with us today, and I look forward to their testimony. I shall probably have to leave and go open the Senate in a little bit, but I will read the testimony later.

Mr. Chairman, in addition to receiving testimony on compensation-related legislation, we will also receive testimony today concerning S. 1956, a bill which would authorize, on a pilot basis, reimbursement for chiropractic services to certain eligible veterans with neuromusculoskeletal conditions of the spine.

For a number of years I have been concerned that our Nation's 30 million veterans are not being offered and afforded the opportunity to benefit from chiropractic health professionals within the VA health-care system. Despite the long-standing authority to provide this care, the VA has refused to do so.

Mr. Chairman, S. 1956 is not the first bill which I have introduced to compel the VA to provide chiropractic services to veterans. In fact, S. 1956 is identical to S. 196, which was passed by the Senate during the last Congress. While the House failed to approve S. 196, in the conference report of Public Law 96–151 the House Veterans' Affairs Committee joined this committee in urging the VA to use its existing authority to provide, at least on a pilot basis, chiropractic services in appropriate cases as part of the hospital care of medical care services furnished to veterans.

The urging of Congress has been ignored, and to date nothing has been done to bring the VA in line with many State and Federal health-care programs which provide reimbursement to their beneficiaries for chiropractic services received.

Among those programs are medicare, medicaid, Federal employees workmen's compensation, State workmen's compensation programs, and most Federal employee health benefit plans.

Mr. Chairman, as I noted at the hearing when the committee considered S. 196, there seems to be some ill feeling between chiropractors and medical doctors. I have a great respect for medical doctors; there are about nine in my family. On the other hand, there appears to be a need for chiropractors. They seem to be well-qualified, taking 2 years of preprofessional college, and spending 4 years in training for their profession.

I can see no reason for continuing to deny veterans the same care received by other Federal beneficiaries. I hope the committee will very carefully consider this bill.

Thank you, Mr. Chairman.

Chairman SIMPSON. Thank you very much, Strom. Indeed we shall give it careful consideration.

Senator Cranston had a conflict in committee hearing schedules this morning. He, being the ranking member of this committee, and a very important part of it. He is introducing the Secretary of State-Designate, George Schultz, this morning to the Committee on Foreign Relations, and will not be able to attend this hearing. The record will be left open for his opening remarks for inclusion in the record, and they will be printed in the appropriate point. Senator Stafford, a very fine contributing member of the committee, is involved in the acid rain hearing and the Clean Air Act and will not be able to be present. I submit his statement for the record, without objection.

[The prepared statements of Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs and Hon. Robert T. Stafford, a U.S. Senator from the State of Vermont, follow:]

PREPARED STATEMENT OF HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

It is a great pleasure to join in welcoming all of our witnesses and guests to this hearing this morning during which the Committee will receive testimony on a proposal for a cost-of-living increase in veterans' service-connected disability compensation and survivors' dependency and indemnity compensation, as well as on a number of other legislative proposals.

As many of you know, I firmly believe that the needs of veterans who suffer from service-connected disabilities and the survivors of veterans who die from service-connected causes must be our number one priority.

Thus, I was very pleased that the first concurrent resolution on the budget for fiscal year 1983 -- after taking into account the $77 million in entitlement savings required in reconciliation -- includes sufficient room for this Committee to approve a full 7.4-percent cost-of-living adjustment in compensation and DIC rates. This is the same percentage increase granted to social security recipients and VA pension recipients last month. In light of where we started in the context of the first concurrent resolution -- a Senate Budget Committee-reported resolution that would have precluded any such COLA -- this is a real victory.

In this regard, I want to take this opportunity to congratulate the distinguished Chairman of the Committee for his efforts that contributed so much to that victory -- particularly the very strong and effective letter that he sent to the Budget Committee Chairman, Senator Domenici, urging that the Senate conferees on the budget resolution recede to the House in order to achieve a budget making provision for this COLA. I believe that his letter contributed to the favorable outcome we were able to achieve.

I'm also pleased that the Chairman has included on the agenda this morning a measure I introduced in February -- S. 2048, a bill that would restore eligibility for VA burial benefits in the case of certain indigent wartime veterans whose bodies are not claimed. I'm pleased to note that this measure -- which has been estimated by the VA to cost less than one million dollars in any one fiscal year -- is cosponsored by sixteen Senators, including Senators Randolph, Matsunaga, DeConcini, Mitchell, Humphrey, Moynihan, Melcher, Pell, Andrews, Hawkins, Heflin, Long, Ford, Huddleston, Heinz, and Pryor. Mr. Chairman, I ask that a copy of my introductory statement on this measure appear at an appropriate place in the hearing record.

In addition, I want to make mention of the two measures on the agenda which I have joined the distinguished Chairman of the Committee in introducing.

First, S. 2709 is a proposal that would clarify eligibility for DIC benefits in the case of survivors of veterans who, on account of administrative error, had not actually been in recipt of VA compensation for a ten-year period. I am aware that when the VA testified on a similar measure before the House Veterans' Affairs Committee earlier this year it was opposed to the enactment of this legislation. However, since that time, the agency has reconsidered its position and is supporting enactment of the measure. I believe the agency's reconsideration of this issue was appropriate, and I want to congratulate the Administrator on the final decision.

Second, Amendment No. 1909 to S. 2378 would provide a more uniform and more equitable minimum-service requirement for certain veterans' benefits eligibility. Amendment No. 1909 would generally make applicable to non-VA, non-title 38 benefits the improved eligibility requirements that the Congress enacted last year, in section 604 of Public Law 97-66, with respect to title 38 and other VA benefits. Mr. Chairman, I ask that my introductory statement on that measure also appear at an appropriate place in the hearing record.

Finally, I want to emphasize once again my strong support for a full 7.4-percent cost-of-living increase in compensation and DIC payments. I look forward to working with the Chairman and the other members of this Committee as we work toward enactment of this legislation.

PREPARED STATEMENT OF HON. ROBERT T. STAFFORD, A U.S. SENATOR FROM THE STATE OF VERMONT

MR. CHAIRMAN:

Once again we have before us the important matter of an increase of disability compensation and of disability and indemnity compensation for disabled veterans and their survivors and dependents.

Through the years, Congress has from time to time provided for increases in monthly benefits for cost-of-living advances. Inflation continues, although not as rapidly and not as great as the past few years. This year's bill, S. 2378, would provide for a cost-of-living increase in the basic rates of compensation and in higher rates for certain specified disabilities and the rates of additional compensation for dependents. The annual clothing allowance payable to certain severely disabled veterans, would be increased and the monthly DIC rates to surviving spouses and children of those whose deaths were service-connected is provided for.

Apparently, the accurate percentage of increase for cost-of-living allowances this year should be 7.4 percent. The Administration strongly recommends the 7.4 percent cost-of-living increases be authorized. It is my view that we should proceed with these increases in rates for those who have given so much in sacrifice and service for the Nation.

It is indeed appropriate for our Senate Committee on Veterans' Affairs to consider the several bills included on our morning's agenda. I will not comment on all of these, but I feel this Committee at this time should restore burial benefits for certain indigent wartime veterans. The 1981 Reconciliation Act provided that burial benefits for non-service connected deaths are payable only if the veteran at the time of death was eligible for compensation or pension. The proper burial of indigent veterans is essentially a Federal function and this Federal governmental responsibility should not be placed upon the localities and states. The cost of this partial restoration would be relatively small.

Mr. Chairman, I join in welcoming the witnesses to this hearing and in expressing our appreciation for their assistance in meeting our responsibilities in improving our laws relating to veterans.

Chairman SIMPSON. And so we will now begin the hearing today with testimony from the VA and Miss Starbuck. I welcome you before this committee. You may proceed. As always, it is a pleasure to have you testify. You may wish to introduce those accompanying you before you begin your testimony.

TESTIMONY OF DOROTHY L. STARBUCK, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION, ACCOMPANIED BY DR. WILLIAM J. JACOBY, DEPUTY CHIEF MEDICAL DIRECTOR; MAX WOODALL, DIRECTOR, COMPENSATION AND PENSION SERVICE; ROBERT O'TOOLE, DIRECTOR, LOAN GUARANTY SERVICE; ROBERT CAREY, DIRECTOR, INSURANCE SERVICE; AND JOHN H. THOMPSON, DEPUTY ASSISTANT GENERAL COUNSEL

Ms. STARBUCK. Thank you, Mr. Chairman, and good morning. On my right is Mr. Robert Carey, who is Director for Insurance from our Philadelphia headquarters; Mr. Robert O'Toole, Director of Loan Guaranty Service; Dr. William Jacoby, the Deputy Chief Medical Director; Mr. Max Woodall, the Director of Compensation and Pension Service; and Mr. Jack Thompson, of our General Counsel's office.

Mr. Chairman, it is a pleasure to be here this morning. I will try to observe the green and red colors and, while I do have a rather lengthy statement, I will do the best I can.

Certainly we do strongly favor the enactment of S. 2378, which you introduced at our request, which would provide for a cost-of-living increase in monthly compensation allowance to the service-connected veterans and to their survivors. A percentage increase had been introduced originally as 8.1 and now adjusted to 7.4. We suggest that this become effective on October 1 with the fiscal year 1983 costs at this rate of $676.9 million.

We would like to discuss two issues which are of concern in our insurance program.

The first is S. 2382, introduced at our request, which in the veterans group life insurance program and the servicemen's group life insurance program—would assure that no beneficiary would be deprived of the proceeds by reason of filing a late claim and that the proceeds of either policy would not escheat to a State. The present section 770(c) of title 38 provides that the proceeds shall escheat to the SGLI revolving fund in the event a claim is filed after a 4-year period following the insured's death. S. 2382 would delete the language of this section and add specific language to preclude escheat.

The older VA insurance programs, U.S. Government Life and the National Service Life, do not impose a limitation on claims but do protect against escheat. Thus the bill would make the two later programs consistent with the Government and National Service Life Insurance policies and we recommend enactment.

This would impose no cost and would be effective October 1.

S. 2388 also introduced at our request, removed the present restrictions on assignment of a beneficiary's interest in USGLI and NSLI proceeds. Under current law, after the insured dies, a beneficiary may not direct payment to another person by means of an assignment, unless the assignee is within the statutorily prescribed classes of close relatives.

In a number of cases there is a contest for proceeds between the last named beneficiary and a previously named beneficiary, or between designated beneficiaries. These disputes can and often are resolved by agreement of the parties, only if the proposed assignee is within the permitted class. When settlement by assignment is not possible, claimants must resort to time-consuming and expensive litigation, either abandon their claims or find some unsanctioned method of dividing the proceeds.

S. 2388 is designed to facilitate an amicable resolution of disputes. There are no costs associated with this measure and we propose its effective date to be October 1.

With respect to S. 2048, a bill to require the payment of burial benefits in the cases of certain indigent wartime veterans, if a State or political subdivision holding a veteran's body certifies that no one has claimed it, and the State or political subdivision has paid the burial expense, and private resources are insufficient to cover these expenses. We do not favor this bill. Our experience in this area does not indicate a problem of such magnitude that warrants Federal remedial legislation.

Despite some news reports to the contrary, veterans' remains are not being consigned to potter's fields as the result of the cutbacks in the Reconciliation Act. Rather, private, State, and local resources have generally been able to meet the need. Previously we had also opposed H.R. 6040, a similar bill pending in the House. However, if the legislation is passed, we anticipate costs of less than $1 million.

With respect to S. 2460, this would increase the rate of compensation payable to veterans who are totally blind and have specified additional disabilities. Compensation would be increased to the maximum rate under section 314(o) of title 38 if the blind veteran has a bilateral hearing impairment rated as 20-percent disabling, has suffered service-connected total deafness in one ear, or has suffered the loss or loss of use of a hand or a foot.

Mr. Chairman, under current law compensation is payable at the maximum rate if the veteran has also suffered total deafness, rated at 60 percent or if a veteran has also suffered the loss or loss of use of both feet. Both of these reflect the fact that blindness, in combination with very severe deafness or mobility impairment can be very incapacitating. Our principal objection to this bill is that it would elevate blindness combined with relatively moderate deafness or unilateral extremity impairment, to a position disproportionately high in the compensation rate structure.

We cannot favor S. 2460, not because we are unsympathetic to the needs of blind veterans, but because we believe compensation rates should remain relative to the levels of disability suffered.

With respect to S. 2461, Mr. Chairman, we favor the enactment of this legislation which proposes to increase compensation payable to veterans who are totally blind without light perception, to the rate specified under section 314(n) of title 38. The absence of light perception results in special problems of orientation. This differential in disability should be reflected in different rates of compensation.

Because we believe the resulting disability to be more on a level with optical enucleation than with blindness and retention of light perception, we do support the increase enactment of S. 2461 would bring. This measure would result in a cost of less than $1 million in any fiscal year.

Mr. Chairman, with respect to S. 2709, this is a legislative proposal along the lines of H.R. 6039, a bill currently pending in the House.

This would expand the eligibility for benefits at DIC rates under section 410(b) of title 38, which are now payable even though the veteran's death is not service-connected, but only if a veteran was in receipt of compensation for at least a 10-year period or continuously for a 5-year period immediately following discharge and prior to his death. This proposal would extend eligibility to survivors of veterans whose total ratings were in effect for a lesser period because of Veterans' Administration error.

Mr. Chairman, we commented adversely on H.R. 6039, but since that time have reviewed our position in the light of the remedial purpose sought to be achieved. We have no wish to deprive otherwise eligible survivors by reason of our mistakes and accordingly we favor enactment.

The next bill I would discuss is S. 2381, a measure introduced at our request to authorize the administration to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots.

Because lenders are often unwilling to finance the purchase of a lot unless the lender obtains a full security interest in both the mobile home unit and the lot, we believe that a veteran would be precluded from using his or her mobile home entitlement. This is a natural extension of the mobile home program and accords with the conventional loan program, and we do favor its enactment.

Mr. Chairman, we do not favor the enactment of S. 1956, a bill to authorize reimbursement of charges for chiropractic services rendered to certain veterans. Our opposition is grounded in professional, programmatic, and fiscal concerns.

Under S. 1956, reimbursement of up to $200 per year would be authorized if a veteran has a service-connected disability rated 50 percent or more, and has been furnished VA care for a neuromusculoskeletal condition of the spine within 12 months preceding chiropractic treatment for the same condition.

We reject this bill's apparent premise, which is that the VA cannot adequately care for veterans suffering from musculoskeletal disorders of the spine. We oppose as fiscally wasteful and highly questionable from a therapeutic standpoint, any open-ended system that would require the Government to pay for chiropractic services on the basis of treatment decisions not subject to VA scrutiny. For these and other reasons we do not favor the enactment of this proposed legislation.

Mr. Chairman, amendment No. 1909 to S. 2378, which you submitted on June 30, would amend section 3103(a) of title 38.

This does not really have any effect with respect to the Veterans' Administration; it has more effect with respect to other Federal agencies having veterans' programs within their parameters. And since it would have little effect, we would defer to other Federal agencies affected as to the merits of this legislation.

I've seen a red light for about 4 minutes, Mr. Chairman. I apologize. My peripheral vision is not too bad. That concludes my testimony. We will be very happy to answer any questions.

Chairman SIMPSON. Thank you very much.

I do have some questions.

Section 314 of title 38 currently provides for various levels of compensation awards for disability.

Would you explain the requirements for each separate level of compensation, please, for the record?

Ms. STARBUCK. Mr. Chairman, I would ask that Mr. Max Woodall provide an explanation for that.

Mr. WOODALL. Yes. Section 314 provides the following requirements:

Section (k) provides payment for anatomical loss of one eye or blindness of one eye, having only light perception. In this case, light perception only is defined as inability to recognize test letters at 1 foot or count fingers at 3 feet.

Subsection (l) provides for blindness in both eyes with visual acuity of 5 over 200 or less, or contraction of field of vision beyond 5 degrees in both eyes.

Subsection (m) covers blindness in both eyes having light perception only, or less.

Subsection (n) provides for anatomical loss of both eyes.

Subsection (o) covers blindness in both eyes with visual acuity of 5 over 200 or less, plus other severe disabilities such as loss, or loss of use, of both hands or feet, or bilateral deafness rated 60 percent or more disablement.

Chairman SIMPSON. What effect would the enactment of S. 2461 have on the levels that you described? That is, would these distinctions still be fairly maintained, in your judgment?

Mr. WOODALL. Well, S. 2461 would set up a new category of blindness, total blindness without light perception. Under the current law these veterans are entitled only to special monthly compensation under the subsection known as (m) in the absence of other disabilities, because the anatomical loss of both eyes is needed to meet the requirements of the next subsection (n) as in November.

The proposed legislation would elevate the rate of compensation for veterans without light perception to the same level as we now pay only for those veterans with anatomical loss of both eyes.

The distinction would still be maintained but disability caused by lack of light perception is much greater than that caused by blindness with light perception.

Chairman SIMPSON. Why was the "k" award not included in this year's proposal to increase compensation payment in accordance with the rise in the cost of living?

Ms. STARBUCK. I would have to provide that for the record, Mr. Chairman.

Chairman SIMPSON. If you would, please.

Ms. STARBUCK. I will, sir.

[Subsequently, the Veterans' Administration submitted the following information:]

It has long been the policy of the Veterans' Administration to recommend periodic increases in compensation benefits when needed to ensure that they remain responsive to changing economic conditions. In recent years increases in compensation rates have been recommended which reflected changes in the cost-of-living index. This method of determining the rate of increase has been used since compensation is intended to be a payment for economic loss, that is, the loss of earning capacity.

Special monthly compensation payable under section 314(k), title 38, United States Code, has been an exception to this general method of determining the rate of increase. Special monthly compensation under subsection (k) has been increased 18 times over the same period. This type of special monthly compensation is intended to compensate for anatomical loss or loss of use of a body part. It is payable in addition to the compensation provided for the economic loss resulting from the disability. Since the basic rate of compensation is being granted a cost-of-living increase, no recommendation for an increase in the special monthly compensation is being made. Special monthly compensation "k" was last increased effective September 1, 1980.

Chairman SIMPSON. Just to follow up on a question that I recall asking last year at a cost hearing, especially now, since we are again considering this extension of benefits for blinded veterans, under Public Law 96-466, which we adopted in 1980, there was a $5,000 award for especially adapted housing for blinded veterans.

I recall that John Fayles, who was formerly employment director of the Blinded Veterans, testified about a year after the enactment of that that not one grant had been awarded.

I would be interested to know how many grants have been awarded at this time and what they have been used for. We have been made aware that certain blinded veterans have applied for money for the construction of specially adapted facilities which might not really have been needed.

What is the use of such construction, and the status of that program, please?

Ms. STARBUCK. We have so far, Mr. Chairman, approved about 270 grants and they, of course, on an individual basis, would vary up to $5,000. But we consider the participation in this program to be meaningful.

Chairman SIMPSON. Yes, and what have been the sorts of facilities that you've had in mind? Have they always been quite correctly defined in your mind?

Ms. STARBUCK. Yes, they have been. We have worked rather closely in the initial program with the Department of Medicine and Surgery in determining the advisability of items that veterans have requested. We have not always agreed among ourselves that a veteran's desires and his needs meet and we have, wherever possible, accommodated the veteran in his own perceptions of what he needs to facilitate his movement about his house.

Now, with respect to specific items, Mr. Chairman, if you are interested in a recap on what was then a profile with respect to the use of this fund, we could develop that and provide it for the record if you wish.

Chairman SIMPSON. If you wish, please.

[Subsequently, the Veterans' Administration submitted the following information:]

Since the program was implemented on October 1, 1980 the activity has been as follows: (a) 335, applications received; (b) 292, grants approved; (c) 19, applications pending; (d) 17, applications disapproved; (e) 7, cancelled; and (f) $4,368.41, average grant.

The most common adaptations for blinded veterans have been security systems; handrails and grab bars; room additions to house sensory aids; special lighting, sliding doors; emergency exits.

The most common adaptations for veterans with anatomical loss or loss of use of both hands have been lever type handles for doors and plumbing fixtures; mechanically operated windows; circuit breakers.

Chairman SIMPSON. Now, to this issue of chiropractic services, I think there was an expectation on the part of Congress that the VA would try to provide chiropractic services to veterans on a pilot basis. I think that we would all agree that there seems to be ample authority under current law for the VA to either hire the chiropractors on its own staff or to refer veterans to chiropractors on a fee-base system.

Would you please give us a review of the effect of Congress stated desire to have a pilot program, as discussed thoroughly in 1979.

Ms. STARBUCK. I would ask Dr. Jacoby to speak to that if I may, sir.

Chairman SIMPSON. Please.

Dr. JACOBY. Mr. Chairman, the Department of Medicine and Surgery model is a health-care system based on the MD model. What we have available to the veterans at this time is a full range of quality health care. It is our opinion that, for all conditions for which the veteran presents himself, we have adequate facilities to care for that veteran and his medical needs.

Now, should a requirement exist for a referral for chiropractic care, this is available and we feel that current law provides us the authority to provide this care, and for this and other reasons discussed in our testimony have not supported S. 1956.

Chairman SIMPSON. Isn't it true that other Government programs, such as medicare, allow this reimbursement for chiropractic services?

Dr. JACOBY. Yes, sir.

Chairman SIMPSON. And is that care provided through CHAMPUS and CHAMPVA?

Dr. JACOBY. Mr. Chairman, to my knowledge I do not believe so. But I will be happy to research that and provide it for the record if I may.

Chairman SIMPSON. I would appreciate that.

[Subsequently, the Veterans' Administration submitted the following information:]

Chiropractic care is not provided through CHAMPUS and CHAMPVA.

Reimbursement for chiropractic services is not authorized in the CHAMPUS/CHAMPVA programs. DOD Regulation 6010.8 specifically excludes the services of chiropractors.

Chairman SIMPSON. How many living or service-connected, disabled veterans have been treated by the VA for neuromusculoskeletal conditions of the spine?

Dr. JACOBY. Mr. Chairman, at the present time there are approximately 237,808 veterans that are service connected for a back condition which would essentially fall I think within the category of what you have asked me.

Chairman SIMPSON. If you would furnish this information—I would like to have the figures and try to determine the number of claims likely to be filed, should payments go to those individuals, say, held to a limit of $200 per year. That would be of interest. If you would furnish that.

Dr. **Jacoby**. Mr. Chairman, I think we can. We had furnished some data in the past in regard to this in our cost estimates and we based the data on the figures that I had given you plus some estimates of what we thought the use might be and also the cost based on the chiropractic health care, a national study prepared by the Bureau of Health Professions in 1980 and what the average cost for chiropractic care was under the medicare directory prevailing charges of the HCFA.

Based on this data and the fiscal cap in the bill, we projected direct costs at $4 million per year and total direct costs through fiscal year 1985 of approximately $16 million. I would also say that these projections do not incorporate the administrative costs which would be incurred implementing this legislation and administering this program.

[Subsequently, the Veterans' Administration submitted the following information:]

During fiscal year 1980, there were 32,189 veterans treated in a VAMC for a disability involving the back. Approximately 5,150 (16%) were treated for their service-connected disabilities and 4,184 (13%) service-connected veterans treated for a non-service-connected disability, a total of 9,334. The balance (22,855) were veterans without service-connected disabilities.

During fiscal year 1980, there were approximately 37,974 veterans with service-connected disabilities treated on an outpatient basis for a back condition.

A total of 47,308 veterans were treated (inpatient and outpatient) by the VA for neuromusculoskeletal conditions of the spine in fiscal year 1980.

It is estimated that from the 9,334 patients treated on an inpatient basis and the 37,974 outpatients treated (total, 47,308), approximately 9,461 claims would be received and would cost an estimated $1,892,200.

Administrative costs, to be added to the estimated costs of S. 1956, previously submitted are estimated at $408,555.

CALCULATIONS AND METHODOLOGY

9,334 veterans treated for back conditions in VAMCs in Fiscal Year 1980.

37,974 veterans with service-connected disabilities treated on outpatient basis in Fiscal Year 1980 (staff and fee):

7.3 million OPT-SC visits

3.4% treated for back condition (ratio of discharges from VAMCs to those treated for back condition)

7.3 X 3.4% - 248,200 OP-SC visits for treatment of back

37,974 veterans w/SC treated on OPT for back condition (248,200 divided by 5.6 average visits per veteran on OPT = 44,321, minus 6,347 patients discharged to OPT)

6,347 treated as inpatient and discharged to OPT (total, 32,189 X 29% w/SC X 68% % of discharges to OPC)

Total service-connected disabled veterans treated by the VA for neuromusculoskeletal conditions of the spine: 47,308.

Costs:

Treatment Costs:

Assuming that 20% will request chiropractic care, 9,461 claims will be received at a maximum of $200 each - total, $1,892,200.

Administrative Costs:

9,461 claims X 3 hours (processing per claim) X $7.00 (GS-5, step 5 per hour rate) = $198,681.

TOTAL COSTS: $2,090,881.

CALCULATIONS AND METHODOLOGY

Estimated administrative costs for S. 1956. Workloads and associated costs were reported in memorandum dated 1/22/82 (copy attached). Estimates are based on three hours administrative processing per claim at $7.00 per hour for a GS-5, step 5.

(1) Veterans service connected for a back disability:

17,964 X $21.00 - $377,244

(2) Veterans hospitalized within a 12-month period:

929 X $21.00 - $19,509

(3) Veterans 50% or more service connected, outpatient medical services only:

562 X $21.00 = $11,802

(4) TOTAL - $408,555

Attachment

COST ESTIMATE FOR S. 1956

The following assumptions, methodologies and costs are provided in the event this proposed bill is enacted:

a. The term "subluxation," used in the bill is defined as an incomplete or partial dislocation. For the purpose of this report, estimates involve conditions of the spine that would most likely be treated by a chiropractor. These include sprains, strains, intervertebral discs, etc., but exclude spinal cord lesions, fractures and dislocations with cord lesions, spinal paralysis, etc. (information obtained from the Patient Treatment File).

b. Of the total service-connected veteran population, there are approximately 237,808 veterans who are service connected for a back condition (10 percent).

c. There are 689,354 veterans who are 50 percent or more service connected. These potential eligibles are included in para e. below since hospitalization by the VA for a back condition is a prerequisite to eligibility.

d. The National Health Care Expenditures Study (HHS, September 1980) reveals that 88.9 percent of the veteran population has some type of health insurance coverage. Over three-fifths of the states, representing 70 percent of the veteran population require inclusion of chiropractic care under all commercial health and accident policies written in the states. A report on two states reveals that 30 percent and 47 percent of persons with back problems seek chiropractic treatment. This will be estimated as 20 percent for this report for all states due to the minimal data available. (Senate Veterans Affairs Hearing, 96th Congress, S. 741 and S. 196, April 10, 1979, pages 184-186).

e. There were 14,633 veterans discharged from VA hospital care during FY 80 who were treated for back disabilities, adjusted as indicated in paragraph a. above. This is reduced by 16 percent to 12,300 since it is assumed that a portion of these were veterans with service-connected back disabilities and are already included in b. above. (1980 Administrator's Annual Report reflects 16.2 percent of hospitalized veterans were treated for a service-connected disability.)

f. The average number of visits for individuals receiving chiropractic services are 17 visits per person per treatment episode (Chiropractic Health Care: A National Study Prepared for Bureau of Health Professions; 1980). The average cost of a chiropractic visit is $15 (Medicare Directory of Prevailing Charges, 1980, HCFA).

g. There are 689,354 veterans who are service-connected 50 percent or more (see paragraph c. above). It is assumed that 10 percent are service-connected for a back disability. Of the 620,418 balance, 1.2 percent (7,445) will be receiving medical services on an ambulatory basis for a back condition (total veterans treated as a ratio to those treated for a back condition).

COST ESTIMATES

(1) Veterans service connected for a back disability. (see paragraphs 4b and d)

237,808 X 88.9% X 70% = 147,988
237,808 - 147,988 = 89,820 X 20% = 17,964
17,964 X 200 (maximum under S. 1956 - see paragraph 4f) = $3,592,800

(2) Veterans hospitalized within a 12-month period. (see paragraphs 4e and d)

12,300 X 88.9% X 70% = 7,654
12,300 - 7,654 = 4,646 X 20% = 929
929 X $200 (maximum under S. 1956 - see paragraph 4f) = $185,840

(3) Veterans 50% or more service-connected, outpatient medical services only (see paragraph 4g and d)

689,354 - 10% = 620,418
620,418 X 1.2% = 7,445
7,445 X 88.9% X 70% = 4,633
7,445 - 4,633 = 2,812 X 20% = 562
562 X $200 (maximum under S. 1956 - see paragraph 4f above) = $112,480

(4) Totals:

(1)	$3,592,800
(2)	185,840
(3)	112,480
	$3,891,120

(5) Projection (FY 1982 through September 30, 1985, maximum period of S. 1956):

FY 1982	$ 4,000,000
FY 1983	4,000,000
FY 1984	4,000,000
FY 1985	4,000,000
Total	$16,000,000

Chairman SIMPSON. Just one final question. Even though we are advised and your testimony bears out that there have not been a great many burial problems for unclaimed bodies of veterans in most States, would you please explain why you feel the VA should not, in principle, be responsible for the burial of unclaimed veterans' bodies, since obviously veterans issues are usually viewed by the VA as being a national responsibility, rather than an individual State or local responsibility. I would appreciate your comments.

Ms. STARBUCK. Mr. Chairman, we have been keeping some record of calls that are made to our regional offices by various city and county officials with respect to bodies held. Since October 1, 1981 and through June 30, we have had 233 cases reported to us as body-held cases. Of those, 33 were eligible because the death had occurred prior to the passage of the Reconciliation Act. Eighty of them were on the compensation rolls. One hundred one of them were individuals who died after October 1, 1981 and were not eligible for the benefit. Seven of them had peacetime service only and would not have been eligible had the Reconciliation Act not taken place. Four of them would have been barred by character of discharge. And of course there were still some pending cases there. But roughly less than half of those in which a body is held by a county or city authority is ineligible for the burial benefit.

Chairman SIMPSON. Were these bodies properly and respectfully interred?

Ms. STARBUCK. To our knowledge, yes, sir. We do not make any effort to track the manner in which the city or the county disposes of the body but we are assured that no one is buried in a potter's field.

Chairman SIMPSON. Did these occur more in one State than in the other State?

Ms. STARBUCK. I believe that California continues, sir, to lead in the number of cases that are reported to us as having bodies unclaimed.

Chairman SIMPSON. But the figure for the period October 1 through June 30 is 200 and——

Ms. STARBUCK. 233, sir, and 101 of those were ineligible.

Chairman SIMPSON. Yes. Well, we will watch that closely. We want to be sure that those under a pension are provided for in that way, as we did in the last revision. I have several other questions and I will submit those in writing. There will be questions from Senator Cranston and perhaps other members of the committee. I thank you very much for your testimony.

Ms. STARBUCK. Thank you, Mr. Chairman.

[The prepared statement of Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration, and the response of the Veterans' Administration to written questions submitted by Hon. Alan Cranston, Ranking Minority Member of the Senate Committee on Veterans' Affairs, follow:]

PREPARED
STATEMENT OF
DOROTHY L. STARBUCK
CHIEF BENEFITS DIRECTOR
VETERANS ADMINISTRATION
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS

July 13, 1982

Mr. Chairman and members of the Committee: I am pleased to be here this morning to discuss proposed legislation that would affect programs administered by the Veterans Administration.

Cost-of-living Increase

The Veterans Administration strongly favors the enactment of a cost-of-living increase in monthly compensation and dependency and indemnity compensation (DIC) rates. S. 2378, a bill you introduced at our request, would provide for a cost-of-living increase in the basic rates of compensation as well as in the higher rates for certain specified disabilities and the rates of additional compensation for dependents. The annual clothing allowance, payable to certain severely disabled veterans, would be increased as would monthly DIC rates payable to the surviving spouses and children of those whose deaths were service connected.

Mr. Chairman, the Veterans Administration has periodically recommended cost-of-living increases in compensation and DIC benefits to assure that our programs remain responsive to changes in economic conditions. The percentage increase in S. 2378 as introduced, 8.1 percent, was based on our estimate early this year of the scheduled June 1 adjustment in Social Security and VA pension benefits. The actual percentage increase was 7.4 percent, and we strongly recommend enactment of S. 2378 with appropriate adjustments to reflect a 7.4 percent increase.

These rate increases would become effective October 1, 1982, and would result in fiscal year 1983 costs of $676.9 million.

S. 2382

S. 2382, introduced at our request, is intended to clarify two issues of concern in the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. These programs provide insurance coverage for servicemembers and recently discharged veterans. S. 2382 would assure that no SGLI-VGLI beneficiary is deprived of proceeds by reason of filing a late claim and also that SGLI-VGLI proceeds do not escheat to a State.

When a SGLI-VGLI claim is not filed within four years of the insured's death, present section 770(c) of title 38 provides that the proceeds shall escheat to the SGLI revolving fund. By its terms, this provision implies a bar to payment of proceeds in the event a claim is filed after the four-year period. The legislative history does not support the conclusion that Congress intended a bar; rather, Congress wanted to make certain that no State claimed the proceeds on the basis of escheat.

S. 2382 would delete the language of section 770(c) of title 38 from which a bar to payment of proceeds is implied. The bill would add specific language to section 770 to preclude escheat; in the event the administrator of a veteran's or beneficiary's estate claims the proceeds, the bill would require an affirmative showing that any sum to be paid would not escheat.

The older VA insurance programs--United States Government Life Insurance (USGLI) and National Service Life Insurance (NSLI)--do not impose a time limitation on claims but do protect against escheat. Thus, our bill would make the SGLI-VGLI programs consistent in this regard with the USGLI and NSLI programs.

S. 2382 would impose no costs and would be effective October 1, 1982.

S. 2388

S. 2388, a bill introduced at our request, would remove the present restrictions on the assignment of a beneficiary's interest in USGLI and NSLI proceeds. Under current law, an insured veteran may designate any person as a beneficiary and may change the designated beneficiary at any time. After the insured dies, however, a beneficiary may not direct payment to another person by means of an assignment unless the assignee is within the statutorily prescribed classes of close relatives found in section 718 (NSLI) and section 753 (USGLI) of title 38.

Where there is no question as to the designated beneficiary, these limitations are administratively useful. They also provide a way of protecting the named beneficiary against creditors and others who might unduly pressure the beneficiary for a share of the proceeds.

In a number of cases, however, there is a contest for the proceeds between the last-named beneficiary and a previously-named beneficiary, or between the designated beneficiary and a person named in a judicial decree. In the VA's experience, these disputes can often be resolved by agreement of the parties. The agreement can be carried out by an assignment, however, only if the proposed assignee is within the permitted class of close relatives. When settlement by assignment is not possible, claimants may resort to time-consuming and expensive litigation, abandon their claims, or find an unsanctioned method of dividing the proceeds.

Thus, S. 2388 is designed to facilitate the amicable resolution of disputes among competing claimants. No costs are associated with this measure, which would be effective October 1, 1982.

S. 2048

We do not favor the enactment of S. 2048, a bill to require the payment of burial benefits in the cases of certain indigent wartime veterans. Under current law, as amended by the 1981 Reconciliation Act, burial benefits for nonservice-connected deaths are payable only if the veteran at the time of death was eligible for compensation or pension. S. 2048 would authorize burial benefits, in cases where the veteran is otherwise ineligible, if the State or political subdivision holding the veteran's body certifies that no one has claimed it, the State or political subdivision has paid the burial expenses, and private resources are insufficient to cover those expenses.

We do not favor this bill because our experience in this area does not indicate a problem of such magnitude as to warrant remedial Federal legislation. The Reconciliation Act cutbacks were premised in part on the adequacy of private, State, and local resources to pay for veterans' burial expenses in cases where veterans were ineligible for compensation or pension. Despite some news reports to the contrary, veterans' remains are not being consigned to potter's fields as a result of the cutbacks. Rather, private, State, and local resources have generally been able to meet the need.

A similar bill, H.R. 6040, is pending in the House. We also oppose that measure.

We anticipate costs of less than $1 million for any fiscal year if S. 2048 is enacted.

S. 2460

We do not favor the enactment of S. 2460, which would increase the rate of compensation payable to veterans who are totally blind and have specified additional disabilities. Compensation would be increased to the maximum rate under section 314(o) of title 38 if the blind veteran has a bilateral hearing impairment rated as 20 percent disabling, has suffered service-connected total deafness in one ear, or has suffered the loss or loss of use of a hand or foot.

Mr. Chairman, under current law, compensation is payable at the maximum rate if the veteran has also suffered total deafness rated at 60 percent. This reflects the fact that blindness in combination with severe deafness can be very incapacitating. Compensation is also payable at the maximum rate if the veteran has also suffered the loss or loss of use of both feet, which again reflects the fact that blindness in combination with severe mobility impairment can be very incapacitating.

Our principal objection to S. 2460 is that it would elevate blindness combined with relatively moderate deafness or unilateral extremity impairment to a position disproportionately high in the compensation rate structure. If S. 2460 were enacted, a blind veteran with a 20 percent hearing loss would receive the same rate of compensation as a blind veteran who is a quadriplegic or a double amputee. Hence, we cannot favor S. 2460, not because we are unsympathetic to the needs of blind veterans, but because we think compensation rates should remain relative to the levels of disability suffered.

The enactment of S. 2460 would result in costs of less than $1 million in any fiscal year.

S. 2461

Mr. Chairman, we favor the enactment of S. 2461, which proposes to increase compensation payable to veterans who are totally blind without light perception, to the rate specified under section 314(n) of title 38. Compensation for these veterans would then be on a par with compensation for veterans who have suffered the anatomical loss of both eyes--a condition known as enucleation.

Under current law and regulations, totally blind veterans with light perception are compensated under section 314(m) of title 38. Also in this category are blind veterans without light perception. The absence of light perception results in special problems of orientation that render its victims less able to function. This differential in disability should be reflected in different rates of compensation. Because we believe the resulting disability to be more on a level with optical enucleation (and its loss of light perception) than with blindness and retention of light perception, we support the increase enactment of S. 2461 would bring.

The enactment of this measure would result in costs of less than $1 million in any fiscal year.

S. 2709

Mr. Chairman, I will now turn to S. 2709, a legislative proposal along the lines of H.R. 6039, a bill currently pending in the House Veterans' Affairs Committee. S. 2709 would expand eligibility for benefits at DIC rates under section 410(b) of title 38. This subsection provides for a limited departure from the principle that DIC is payable only for service-connected death. Benefits at DIC rates are paid even though the veteran's death is nonservice connected, but only if the veteran was in receipt of compensation at the total rate for 10 years or more, or continuously for at least 5 years since discharge, immediately prior to death. This proposal would extend eligibility to survivors of veterans whose total ratings were in effect for a lesser period because of VA error.

Mr. Chairman, we commented adversely on H.R. 6039, the counterpart measure. Since that time, we have reviewed our position in the light of the remedial purpose sought to be achieved. We have no wish to deprive otherwise eligible survivors by reason of our mistakes. Accordingly, we favor the enactment of S. 2709.

S. 2381

The next bill I will discuss, Mr. Chairman, is S. 2381, a measure introduced at our request to authorize the Administrator to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots.

At present, chapter 37 of title 38 permits a veteran to refinance loans secured by liens on a conventional home. No such authority exists with respect to loans secured by a mobile home except in the case of a veteran obtaining a new loan at a lower interest rate to replace an existing VA-guaranteed loan.

Although a veteran may own a mobile home unit outright, the unit is often located on a rented lot within a mobile home park. The VA has become aware that a significant number of rental mobile home parks are being converted into either a condominium or planned unit development form of ownership. When a park is so converted, the owners of mobile home units located within the park must either purchase the site or move their units to a new location at their own expense. Such a move can be quite expensive.

Lenders are often unwilling to finance the purchase of the lot unless the lender obtains a full security interest in both the mobile home unit and lot. Under these circumstances, a veteran would be precluded from using his or her VA mobile home loan entitlement (or remaining entitlement) to acquire a fee interest in the lot because current law does not permit refinancing mobile home loans.

S. 2381 is a natural extension of the mobile home program. Accordingly, we favor its enactment.

S. 1956

Mr. Chairman, we do not favor the enactment of S. 1956, a bill to authorize reimbursement of charges for chiropractic services rendered to certain veterans. Our opposition is grounded in professional, programmatic, and fiscal concerns.

Under S. 1956, reimbursement up to $200 per year would be authorized if the veteran has a service-connected disability rated 50-percent or more and has been furnished VA care for a neuromusculoskeletal condition of the spine within the 12 months preceding chiropractic treatment for the same condition. The bill would also authorize appropriations, up to $4 million per year, to pay for the reimbursements, and this authority would expire at the end of fiscal year 1985.

Mr. Chairman, we reject this bill's apparent premise, which is that the VA cannot adequately care for veterans suffering from musculoskeletal disorders of the spine. We oppose, as fiscally wasteful and highly questionable from a therapeutic standpoint, any open-ended system that would require the Government to pay for chiropractic services on the basis of treatment decisions not subject to VA scrutiny. The complex reimbursement provisions of the bill would impose a considerable administrative burden. Moreover, the bill could subject the VA to long-term indirect costs should the chiropractic treatment injure the veteran. For these and other reasons, we do not favor the enactment of S. 1956.

Amendment No. 1909 to S. 2378

Mr. Chairman, Amendment No. 1909, which you submitted on June 30, 1982, would amend section 3103A of title 38. Section 3103A expands and clarifies the minimum-service requirement applicable to certain veterans, primarily those who entered the service for the first time on or after September 8, 1980, and currently applies only to VA-administered programs. This section was added last year to supersede section 977 of title 10 with respect to VA programs.

Amendment No. 1909 would supersede section 977, with respect to programs for veterans operated by other Federal agencies, by extending the same policies and clarifications as are embodied in section 3103A of title 38. For example, section 977 of title 10 does not cover officer personnel who fail to complete two years of their obligation; section 3103A does. Section 977 exempts any veteran who can prove an injury incurred in service that is so minor as to be non-compensable; the comparable section 3103A exemption applies only to veterans who have compensable disabilities.

Amendment No. 1909 would also clarify that certain Federal programs are exempt from the minimum-service requirement: earned Social Security credits, veterans' preference, and unemployment compensation for ex-servicemembers (UCX). These programs, administered by the Social Security Administration, the Office of Personnel Management, and the Department of Labor, respectively, are of great interest to the VA and to veterans generally, as are veterans' programs administered by other Federal agencies such as the Small Business Administration, the Department of Housing and Urban Affairs, and the Department of Defense. However, it appears that Amendment No. 1909 would have little if any effect on VA operations, and we would defer to the other Federal agencies as to its merits.

This concludes my testimony. I would be happy to respond to any questions you or other members of the Committee may have.

RESPONSE OF THE VETERANS' ADMINISTRATION TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. On page 6 of your testimony you state, "The Reconciliation Act cutbacks [in the VA burial allowance] were premised in part on the adequacy of private, State, and local resources to pay for veterans' burial expenses in cases where veterans were ineligible for compensation or pension." Please cite the legislative history or any other authority on which you base this statement.

Answer. As indicated in the Chief Benefits Director's testimony on S. 1062, before your Committee on May 6, 1981, the availability on non-VA Federal resources for veterans' burial and funeral expenses was one of the considerations in VA's support for the cutback. One may fairly conclude that the widespread Congressional support for a cutback in nonservice-connected burial benefits (which, in a somewhat different formulation, passed the House twice in 1980) was in part based on the availability of non-VA resources for veterans' burial and funeral expenses.

Question 2. You further note on page 6 of your statement that your "experience in this area does not indicate a problem of such magnitude as to warrant remedial Federal legislation." In how many cases has the VA denied claims for VA burial benefits for indigent veterans where such benefits would, prior to the enactment of the limitations last year, have been paid?

Answer. From October 1, 1981, to July 31, 1982, 256 body-held cases were reported. Of those, 123 were eligible for burial benefits--33 because the death occurred prior to October 1, 1981, and 90 because the deceased veteran was on the compensation pension rolls. Seven of the cases were still pending at the end of July. The remaining 126 body-held cases were ineligible for VA burial benefits for the following reasons:

- Death after October 1, 1981: 115
- Peacetime/less than 90 days'service: 7
- Character of discharge: 4

Question 3. With respect to two measures on the agenda, your statement fails to provide a cost estimate. Please provide cost estimates for S. 2709, a bill to correct a technical error with respect to entitlement to dependency and indemnity compensation, and S. 2381, a bill to authorize the Administrator to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots. In the case of the latter measure, please also provide the estimated number and average amount of loans that would be guaranteed or insured under the proposed new authority.

Answer. S. 2709, like H.R. 6039, would allow benefits to be paid at DIC rates if the deceased veteran was not in receipt of compensation at the 100-percent rate for the requisite 10 years because of a lack of waiver of military retired pay or VA administrative error. This proposal would result in benefit costs of less than $1 million, as few additional claims are expected to be granted. This proposal could, however, have significant administrative costs, i.e., over $100,000, if more than 2,000 requests to reopen claims are received.

S. 2381, which would authorize the Administrator to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots, would result in negligible costs. We estimate that approximately 100 loans would be guaranteed or insured under the proposed new authority. The average amount of each of those loans would be approximately $21,000.

Question 4A. On page 13 of your testimony you state that Amendment No. 1909 to S. 2378 would exempt veterans' preference from the minimum service requirement. Quite to the contrary, paragraph (3) of the proposed new subsection (d) of section 3103A would provide that the only title 5, United States Code, benefits to which the minimum-service requirement applies are those based on meeting the definition of "preference eligible" in section 2108(3) of title 5. Thus, do you agree that your statement regarding veterans' preference is in error?

Answer. The proposed minimum-service requirement would not apply to veterans with compensable disabilities or those discharged for line-of-duty disability, and, of course, virtually all those affected are veterans of peacetime service after September 1980. Even though, as a technical matter, veterans' preference is not exempted from the application of the proposed minimum-service requirement, the fact is that a peacetime veteran of service after September 1980 cannot qualify for preference unless the veteran is service-disabled. The net effect of the proposed amendment, therefore, would be to exempt veterans with compensable disabilities from the minimum-service requirement with respect to veterans' preference. (Under the current minimum-service requirement applicable to preference (10 U.S.C. § 977), a service-disabled veteran is eligible even if the disability is non-compensable. Evidently, the amendment's intent is, in part, to disqualify for preference any peacetime veteran not discharged for disability whose service-connected disability is non-compensable and who cannot meet the title 38 minumum-service requirement. However, as the Veterans Administration does not administer the law regarding prefernce, we would defer to the Office of Personnel Management on this point.)

Question 4B. Please provide your views on proposed new subsection (f) of section 3103A.

Answer. We have no objection to proposed new subsection (f) of section 3103A, as we have never construed the minimum-service requirement as affecting procedural rights.

Question 5. Last year, section 302 of Pub. L. No. 97-66, the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, extended the eligibility for automobile adaptive equipment assistance to certain veterans entitled to compensation for ankylosis of one or both knees or one or both hips.

> A. Please provide a breakdown of the number of awards that the VA has made under this authority, indicating the specific adaptive equipment approved, the cost of the equipment, and an estimate of the administrative cost associated with each award.
>
> B. Please provide estimates of the number of grants and cost of awards for the balance of fiscal year 1982 and for fiscal year 1983.

Answer. The information follows:

DVB Circular 20-82-26, Automobile Adaptive Equipment Awards Report--Ankylosis (RCS 20-24-2), Section 302, Pub. L. No. 97-66

A. Total Number of Awards Made: 63.

B. Equipment Provided (Number):

Automatic Transmission (43)
Power Brakes (35)
Hand Operated Dimmer Switch (18)
Left Foot Accelerator (14)
Power Seat (10)
Hand Operated Power Brakes (7)
Power Steering (6)
Rear Window Defogger (6)
Tilt Steering Wheel (4)
Hand Controls (4)
Hand Operated Parking Brake (3)
Cruise Control (3)
Step Plate (1)
Seat Extension (1)
CB Radio (1)
Bucket Seats (1)
Guard for Right Foot (1)
Extension Lever for Parking Brake (1)
Automatic Dimmer Switch (1)

C. Total Cost of Adaptive Equipment: $27,842.04.

D. Average Cost of Adaptive Equipment per Award: $441.94.

E. Total Estimated Administrative Cost: $2,860.61.

F. Average Estimated Administrative Cost per Award: $45.41.

G. Estimated Number of Awards for Fiscal Year 1983: 150.

H. Estimated Average Cost of Equipment per Award (FY 1983): $568.39.

Chairman SIMPSON. Next please are the various veterans' organizations: John Sommer, Jr., of the National Veterans Affairs and Rehabilitation Commission of the American Legion, accompanied by Mr. Egan; and then John F. Heilman, the national legislative director of the Disabled American Veterans in Washington; and James Magill, special assistant, National Legislative Service of the Veterans of Foreign Wars of the United States.

It is good to have you here representing your fine groups. Proceed, please, Mr. Sommer.

TESTIMONY OF A PANEL OF REPRESENTATIVES OF VETERANS' ORGANIZATIONS CONSISTING OF JOHN F. SOMMER, JR., DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION, ACCOMPANIED BY PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION; JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; AND JAMES N. MAGILL, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. SOMMER. Mr. Chairman, my name is John Sommer, deputy director of the National Veterans Affairs and Rehabilitation Commission, the American Legion.

The American Legion is certainly supportive of increases in compensation, DIC and related benefits and we feel that they should be consistent with increases in the Consumer Price Index.

It is our opinion that the enactment of S. 2048 to restore eligibility for burial benefits in the case of certain destitute veterans whose bodies are unclaimed would be beneficial. However, we are mandated to strive for the restoration and payment of the burial allowance for all veterans who were eligible prior to the enactment of Public Law 97-35. The Legion has no objection to the enactment of S. 2381 to authorize the Administrator to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots and S. 2382, to remove the bar against payment of SGLI and VGLI in the event the claim is filed late and to clarify that these proceeds may not escheat to a State.

S. 2460 and S. 2461 would liberalize special monthly compensation under paragraphs (n), (o), and (p) of section 314 for a small number of veterans with blindness combined with other serious service-connected disabilities and we would not oppose these measures.

Likewise, the Legion is supportive of S. 2709 which would include language to clarify the eligibility criteria for DIC benefits; and amendment No. 1909 to S. 2378 which calls for a more uniform minimum service requirement for entitlement to certain non-VA benefits as a result of active duty service to the extent that information is currently available on this.

Mr. Chairman, there are several issues under consideration today which cause us a great deal of concern. Section 304 of S. 2378 would, for pension purposes, change the definition of a dependent child while in education status, and would gradually eliminate the pension payable to or on behalf of any child on the basis of the child's pursuit of an education. The Legion is opposed to this provision.

S. 2956 would authorize reimbursement for chiropractic services provided to certain veterans and the American Legion does not support the enactment of this proposal. Mr. Chairman, we are sensitive to the fact that the Nation is in a period of economic complication requiring fiscal restraint in Federal expenditures. It is also acknowledged that veterans must share in these restraints.

The percentage of the total Federal budget consumed by veterans programs has been steadily declining which indicates that veterans are making a contribution to the national effort to balance the budget.

The American Legion is however dedicated to the principle that economy must not be practiced at the expense of the veterans of this Nation and particularly those who are seriously disabled.

Mr. Chairman, that concludes our summary.

Chairman SIMPSON. Thank you very much.

Mr. Heilman, please.

Mr. HEILMAN. Yes, sir. Our statement does address all 10 of the pending measures. I will summarize in my oral remarks—only address four of the bills that the DAV has clear mandates on from our national membership.

With respect to the S. 2378, the administration's compensation bill, as indicated earlier, the 8.1 estimate was made earlier this year based on the projected CPI movement. In terms of the congressional action on the first and current budget resolution and recent CPI movement, I think 7.4 percent will indeed prove to be an accurate measurement of the loss of earnings power between October 1 of last year and September 30 this year. Obviously, the DAV supports such an adjustment in compensation in DIC rates.

I do want to also say that we deeply appreciate the fact that your committee earlier this year did reject the benefit reduction proposals contained in title II of this measure. We found them most odious and we are very pleased that the committee has decided not to act upon them, Mr. Chairman.

Regarding S. 2048, to address the burial needs of certain wartime veterans who are now ineligible for burial because of the Reconciliation Act of last year, whose remains are in the custody of some type of State or local agency and who have no survivors, I agree with the VA witnesses in their statement that this is not a problem of any great magnitude. I think when it surfaced last year in California it was somewhat blown out of proportion at that time.

But nonetheless, if there are several instances where the remains of a wartime veteran might not receive timely or appropriate burial, we certainly believe our Government should see to it that that does not occur and that in fact interment is appropriately made. So we would support passage of S. 2048 and I think everyone agrees that the cost factor here is going to be very, very insignificant.

With respect to S. 1956, we do have a mandate from our national membership calling for the VA reimbursement of reasonable fees for chiropractic services.

You have noted, Mr. Chairman, that the Congress indicated to the VA in Public Law 96-151 a few years ago that it desired VA to reevaluate its position and perhaps throw together some type of pilot program. The VA has not done this and I think it is clear from their testimony today that they are not going to initiate any type of action in this area. If veterans are to receive chiropractic care it is going to be because Congress has required the VA to provide those services.

We, therefore, do support S. 1956. We note under the bill being considered that it only provides this care through fiscal year 1985 and requires reports to the Veterans' Affairs Committees and obviously the program as such would be reevaluated at the end of that time. So we see nothing wrong with the enactment of S. 1956.

S. 2709 was introduced at our request, to correct an anomaly with regard to presumption of service-connected death benefits. As Ms. Starbuck correctly stated, there are certain cases where the veteran, through VA error, did not have total and permanent service-connected disability for 10 continuous years immediately preceding death.

We are very pleased that the VA has reconsidered its position since testifying in the House earlier this year and now do not object and in fact do support passage of this measure and we strongly urge that the committee act favorably upon it.

That completes my testimony.

Chairman SIMPSON. Thank you very much, Rick.

Jim Magill, please.

Mr. MAGILL. Thank you, Mr. Chairman, for the privilege of presenting the views of the Veterans of Foreign Wars. I will be happy to summarize my remarks inasmuch as my full statement will be made a part of the record.

The first bill under consideration, S. 2378, provides for a cost-of-living increase in compensation rates for disabled veterans and those in receipt of dependency and indemnity compensation.

We are pleased to see the increases across the board and, as is mandated by VFW resolution, would have preferred the increase to be at least commensurate with that reflected by the Consumer Price Index.

Mr. Chairman, as is detailed in my statement, the VFW supports all of the remaining measures under consideration this morning. We encourage the passage and enactment of these bills which enhance compensation to blinded veterans, allow refinancing of mobile homes, allow reimbursement for chiropractic services, expand options to beneficiaries under Government life insurance policies and restore burial benefits to those veterans whose remains are unclaimed.

This concludes my statement, Mr. Chairman. I will be happy to respond to any questions you have.

Chairman SIMPSON. Thank you very much.

Before I go to a couple of questions I would note that when we were discussing earlier this amendment No. 1909 to S. 2378, agencies that are affected by that amendment have been asked to provide a report for the committee on precisely which programs are involved and how they might be changed by its passage. Those reports will be received before the committee markup.

I would invite all interested parties to contact Tom Harvey, the staff director and chief counsel of the Veterans' Affairs Committee staff, in order to review and to comment on those reports. They are available and he is accessible. If he is not, contact me. [Laughter.]

So just a couple of questions for John Sommer.

Your committee or the Legion committee, if you could summarize for us the reasons for the conclusion of your subcommittee on the chiropractice of the Veterans Affairs and Rehabilitation Commission, and your group.

You obviously received some data there which you have collected which was important to your decision.

Have you since collected any further data to support the conclusion and can you share that with us?

Mr. **Sommer**. Mr. Chairman, answering the second part of your question first, our subcommittee is going to continue to monitor this. The subcommittee is composed of volunteer representatives from various parts of the country, not paid employees of the staff. We have not gathered any information that they may have available at this point. So there is no change in our feelings which are reflected in the report that is attached to our statement.

The bottom line of the subcommittee's thinking on this issue was two points. No. 1, the Veterans' Administration under current law has the authority to refer a service-connected veteran to a chiropractor if the VA physician feels it is necessary; and No. 2, in the present climate of fiscal austerity we don't think it is responsible to initiate a new program of this nature.

Chairman **Simpson**. Thank you for that, and let me ask Mr. Heilman and Mr. Magill whether your organizations receive complaints from your members about their inability to be referred to VA physicians—to be referred by a VA physician to a chiropractor. How how often do you receive such complaints?

Mr. **Heilman**. Yes, sir. We have and I would say that we have not received a large amount of complaints or that this is a frequent complaint. But if I were to put a number on it I would say perhaps a half a dozen times a year we will receive a complaint.

We will also receive inquiries, not in the nature of a complaint, but inquiries as to is this—is chiropractic care available through the VA, that type of thing. There is definitely interest out there and a few complaints.

Chairman **Simpson**. Mr. Magill?

Mr. **Magill**. Sir, I cannot say exactly how many complaints we have received but, due to the fact that we have a resolution calling for this, complaints have been registered in the past.

Chairman **Simpson**. All right. Thank you. Just one question perhaps for all three, if you could share your thoughts.

In light of the recent events in the budget process—and you were very patient and long-suffering in that process and I am deeply appreciative—and specifically when it seemed for a time that pension COLA's would be assured because they are indexed by law to the cost of living allowance for social security recipients, while it seemed that compensation COLA's would not be made for all recipients, if you could share with the committee your position on the merits of having compensation COLA's also perhaps indexed to the annual cost-of-living increase which is authorized to pension and social security recipients. Perhaps also with respect to the legislation which proposes to raise the rate of compensation to certain blinded veterans, how do you feel about and justify the raising of compensation for one group of veterans over another as that very likely is going to do, it appearing then perhaps to the committee that each time that this occurs it may merely produce a motivation for another group of veterans to attempt to have compensation raised? I would like your thoughts on that. It is a dual question. The first one is more directed to the indexing requirement.

Mr. SOMMER. Well, Mr. Chairman, the American Legion does not support the indexing of compensation benefits. We have found over the years that Congress has been quite generous in providing increases in compensation for service-connected veterans and we feel that it would be more appropriate to allow Congress to continue to make these decisions at this point in time.

As far as the increases for the blinded veterans, it has been our experience that from time to time legislation is considered to make changes under section 314 of title 38 where it is found that these changes would be beneficial to a certain group of severely disabled veterans and we haven't seen any great competition from other groups with particular types of disabilities trying to get their oar in because another group has gotten a change put through in one of the paragraphs contained in section 314.

Chairman SIMPSON. I might ask you about the fact of the indexing. What becomes of the situation when there is some risk that the Congress will not be generous?

Mr. SOMMER. We could well change our thinking on the issue.

Chairman SIMPSON. Yes. I think that is what I was seeing begin to stir there, that it is good to take your chances on that when things are going well and there is an 11 percent or 14 percent, but suddenly comes along a problem that you call an economic uncertainty—or you have better words for that in your testimony—and, you know, then suddenly it is not there. That is the hazard of playing that game.

Mr. HEILMAN. Yes, sir. We also prefer to have legislated increases in the compensation DIC program. Mr. Sommer is correct; Congress has been very generous in keeping these rates in tune with losses of earnings power.

We like the idea of the compensation program being reviewed annually by the committee when it looks at a compensation increase bill in terms of liberalizing the program in other areas.

Quite frankly, we like the idea of a compensation bill going to the floor that has been unanimously reported out of committee and which also contains as provisions other benefit improvement for service-connected, disabled veterans. We like to use the comp bill as a vehicle, obviously.

Having the program indexed would be no guarantee that we would get an increase every year because the formula can always be changed or the effective date of an indexed increase can always be changed. There are no guarantees in this business, as you know. So we would, at this point in time, prefer to have it legislated.

Regarding treating veterans differently in terms of their disabilities, actually we are doing that when you look at the schedule of payments rated 10 through 100 percent and the special statutory awards. The more severely disabled get the greater monetary benefit.

Congress, in recent years, has given special benefit increases to veterans who are catastrophically or severely disabled, special increases for triple amputees, and the bilateral loss or loss of use of upper extremities.

I would agree that such proposals should be viewed with caution by the committee and staff in terms of insuring that the SMC rates all of a sudden just don't fall apart and become terribly confused and we find inappropriate increases being given and perhaps veterans with less severe disabilities all of a sudden having entitlement to or receiving greater benefits than veterans who are as severely disabled or perhaps more severely disabled.

But I see nothing wrong with attempting, as these two bills do today, S. 2460 and S. 61, to provide additional compensation for disabilities that have proven themselves to be much more severe than is presently recognized by the schedule. I do agree, though, they should be looked at with caution.

Chairman SIMPSON. Thank you.

Mr. Magill?

Mr. MAGILL. The Veterans of Foreign Wars would oppose the indexing. We believe that programs have to be reviewed and we would, as has been said before, support legislative means to accomplish this.

As far as the two bills on blinded veterans, we believe that when a group is discriminated against, so to speak, and especially if that group has lost a particular sense, as sight, and then has another sense impaired, it would bring these veterans up to par, so to speak, and we would agree— as was said, that this has to be done with caution.

Chairman SIMPSON. I thank you. I think you, Rick Heilman, are being very candid and open when you say that, indeed, the annual increase does become a vehicle for other benefit activity and therefore becomes quite a force as it moves through the legislative process.

But I just want to note or hear that, you know, there is a risk to be taken in that, and it nearly came to pass in its form this time, as when you put yourself up for the good years and get good, generous benefits as you call them. Then, in the tough times, you can lose on this approach, and it is a reality of that type of risk-taking I think; and I just wanted to hear your thoughts.

I have another question or two, and I will submit them in writing. I thank you very much.

Mr. SOMMER. Thank you. Mr. Chairman.

Mr. HEILMAN. Thank you, Mr. Chairman.

[The prepared statements of John F. Sommer, Jr., deputy director, National Veterans Affairs and Rehabilitation Commission, The American Legion; John F. Heilman, national legislative director, Disabled American Veterans; and James N. Magill, special assistant, National Legislative Service, Veterans of Foreign Wars of the United States; follow:]

PREPARED STATEMENT OF JOHN F. SOMMER, JR., DEPUTY DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Committee:

The American Legion appreciates the opportunity to share its views with you on the several measures under consideration today, all of which pertain to benefits for veterans, their dependents and survivors.

Before addressing the legislative proposals under discussion, may it be said that The American Legion is sensitive to the fact that the nation is in a period of economic complication requiring fiscal restraint in Federal expenditures. It is also acknowledged that veterans must share in those restraints.

And the point must be made that the percentage of the total Federal Budget consumed by veterans programs has been steadily declining, which indicates that veterans are making a contribution to the national effort to balance the budget. The American Legion is, however, dedicated to the principle that economy must not be practiced at the expense of the veterans of this nation, particularly those veterans who are severely disabled.

We shall now address ourselves to the measures currently under consideration.

S. 2378 - to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents allowances; to provide for cost-saving improvements in veterans programs; and for other purposes.

Section 314 of the title currently provides for the payment of compensation in the amount of $1,130 monthly to those veterans with service-connected disabilities rated 100 percent or totally disabling. Higher rates of special monthly compensation are payable for certain multiple disabilities evaluated in excess of total, based upon the severity thereof. The monthly benefits for those veterans whose service-related impairments are evaluated from 10 percent to 90 percent range from $58 to $734.

Additional monthly compensation is provided under section 315 of the title for the spouses, children and dependent parents of those veterans entitled to benefits under section 314, and whose service-connected disabilities are evaluated at 30 percent or more.

Section 101(b) of this bill would allow that the Administrator of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857, who are not in receipt of compensation payable pursuant to Chapter 11 of the title.

An annual clothing allowance is provided under 38 USC 362 to each person who, because of disability which is compensable under the provisions of Chapter 11, wears or uses a prosthetic or orthopedic appliance or appliances which the Administrator determines to wear out or tear the clothing of such a veteran.

Dependency and indemnity compensation, as provided under section 411 of this title, is payable to the surviving spouse, based upon the military pay grade upon whose service-connected death entitlement is attributed. These pay grades range from E-1 through O-10, and the current monthly benefits under the DIC program range from $415 to $1,147. Where there is an eligible child or children of the veteran, these rates are increased by $48 monthly for each child under present law. Subsections (c) and (d) of section 411 relate to aid and attendance and housebound benefits for surviving spouses and are payable at the rates of $125 and $62 respectively. Sections 413 and 414 of the title provide for specific payments for children of the veteran under certain circumstances.

The latest increase in the monthly rates of disability compensation and dependency and indemnity compensation was provided under Public Law 97-66, effective October 1, 1981. For those entitled to receive these benefits to keep pace with the increasing costs of goods and services, the rates payable must respond to cost-of-living increases.

S. 2378 calls for an 8.1 percent increase in the foregoing monthly benefits, as well as the clothing allowance, which is paid annually. The American Legion is certainly supportive of cost-of-living increases in the service-connected disability and death benefits, and we feel that they should be consistent with increases in the Consumer Price Index.

Section 201 of S. 2378 would amend section 3104 of the title by adding a new subsection which, effective September 30, 1983, would in effect eliminate 100% ratings for service-connected disabilities based upon individual unemployability. Under the new subsection, where a rating of total disability based on individual unemployability has been assigned to any veteran in receipt of benefits under title II of the Social Security Act or any other Federal program providing monetary benefits for disability or retirement, compensation under section 314 or 315 of the title would not exceed the greater of - (1) the amount payable to the veteran under a schedular rating based upon the criteria contained in subpart B of part 4 of title 38, Code of Federal Regulations, or (2) the amount payable to the veteran on the basis of a rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under title II of the Social Security Act or such other Federal program.

To The American Legion such a proposal is contemptible.

In order to fully express our concerns about this proposed amendment, it is necessary to provide a short illustration of the history of individual unemployability.

Under the authority of section 202 of PL 68-242, the World War Veterans Act, 1924, as amended, an explanatory statement known as Extension No. 11-A to the Schedule of Disability Ratings was promulgated on January 15, 1932. Paragraph (5) of this Extension states "Accordingly, for purposes of both paragraph R-1115 and Extension No. 11, permanent and total disability may be conceded in a proper case where there are present two or more disabilities, affecting entirely different functions, one of which is 65 percent disabling and which combined by present methods to 85 percent. These evaluations, however, upon which permanent and total disability may be conceded are not intended to be rigid unalterable standards. These are cited as illustrative and to be used as guides."

During subsequent years a very substantial amount of interest was associated with this subject and a great deal of emphasis was placed on the interpretation and application of this extra-schedular benefit by the service organizations. On February 5, 1940, following the Washington Rehabilitation Conference, a group of American Legion officials met with then Administrator of Veterans Affairs General Frank T. Hines, and recommended that the interpretation of what constitutes permanent and total disability be widened so as to take into consideration those veterans who because of their physical or mental disabilities were unemployable.

On April 2, 1942, General Hines issued a Veterans Administration Service Letter, the subject of which was "Total Disability Ratings under Public No. 2, 73d Congress and the 1933 Rating Schedule."

Paragraph (1) of the Service Letter stated in part: "1. The attention of all rating agencies is directed to the following statement of policy approved this date which is quoted herewith for the guidance of all concerned:

> 'Total disability ratings under Public No. 2, 73d Congress and the 1933 rating schedule may be assigned without regard to the specific provisions of the rating schedule, except as outlined herein,

> when the disabled person is, in the judgement of the rating agency, unable to secure or follow a substantially gainful occupation as a result of his disabilities: Provided that, if there is only one disability, this disability shall be ratable at 60% or more, and that, if there are two or more disabilities, there shall be at least one disability ratable at 40% or more, and sufficient additional disability to bring the combined rating to 70% or more. Total disability ratings, when the above conditions are met, may be granted for deafness, the organic loss of speech, for the amputation or loss of use of either hand or of either lower extremity above the knee (as to these amputations and losses of use, when followed by continuous unemployability after incurrence), as single disabilities or for other organic disabilities or combinations including organic disabilities.'"

Paragraph (5) of the statement of policy quoted in the Service Letter states in Part:

> "5. It is the policy of the Veterans Administration to resolve the benefit of all reasonable doubt in favor of claimants, to the end that every veteran who is unable to secure and follow subtantially gainful employment, with disability as the cause of such inability, will be given full

> consideration. Rating agencies will exercise great care in the determination of total disability and permanent and total disability to make sure that all claims are properly rated, based on the facts found."

Continued interest on the issue of service-connected disability compensation, particularly the subject of total ratings based upon individual unemployability, and the interchange of information thereon between the veterans organizations and the VA, precipitated a letter from Administrator Hines to the rating agencies in all field stations. The letter stated in part:

"During the past year considerable attention has been given to the modification of the Second Edition of the 1933 Schedule of Rating Disabilities. Considerable interest has been evidenced by the major service organizations on this subject during their conventions and such organizations have been appropriately advised as to action taken and action contemplated. In order that you may be conversant with advices so given there is announced herewith the essential text of letters written to The American Legion, Veterans of Foreign Wars of the United States and the Disabled American Veterans of the World War.

"It has been determined to liberalize the practice under the Service Letter dated April 2, 1940, as regards the requirement of continuous unemployability after incurrence of amputations and similar static disabilities by permitting exceptions in the event the employment which was secured was only occasional, intermittent try-out, unsuccessful, or eventually terminated by some incident of the disability. The practice will also be liberalized in the matter of establishing one disability of 60%, or 40%, as required, or other numerical requirements to include all bilateral disabilities resulting from a single accident, or affecting a single body system. The effect of advancing age, non-service disabilities, etc., without increase in the degree of service-connected disability may not be utilized to authorize increased ratings in the service-connected group. It has not been found practicable to define substantially gainful occupation on the basis of one-half the usual wages or the usual time otherwise than on consideration of the facts in individual cases."

Administrator Hines, after further addressing the issue of unemployability and other matters relating to the rating of disabilities, closed the letter as follows:

"It is thought only fair to invite attention to the fact that the Administration must furnish a convincing justification for increased appropriations which would result from schedule liberalization. Actual need, on account of inadequate payments in relation to average impairment in earning capacity, going beyond mere opinion favoring liberalization, must be established. We are always willing to consider individual claims, properly referred with prima facie evidence of schedule inadequacy applied to the individual case. On the basis of such submissions, primarily, defects in the schedule are brought to attention and adjustments effectuated. In dealing with the large groups of disabled veterans affected, increases are necessarily considered with considerable caution.

"It is the effort of the Administration to keep the rating schedule at the levels indicated by available information as to employment and earning capacity of disabled persons, and also abreast of changing medical concepts, and further suggestions, preferably affecting only one field or type of disability at a time, will be welcomed."

Subsequently, on November 15, 1941, under the authority contained in Veterans Regulation No. 3(a), issued pursuant to PL 73-2, a readjustment of the 1933 Schedule for Rating Disabilities, known as Extension No. 4, was promulgated.

Paragraph (1) of Extension No. 4 states in part: "Total disability ratings under Public No. 2, 73d Congress and the 1933 rating schedule may be assigned without regard to the specific provisions of the rating schedule when the disabled person is, in the judgement of the rating agency, unable to secure or follow a substantially gainful occupation as a result of his disabilities. Provided, that, if there is only one disability, this disability shall be ratable at 60% or more, and that, if there are two or more disabilities, there shall be at least one disability ratable at 40% or more, and sufficient additional disability to bring the combined rating to 70% or more."

Paragraphs 2(a) and (b) of Extension No. 4 state as follows:

> "(a) For the above purpose of one 60% disability, or one 40% disability in combination, or the reduced numerical requirements according to age, the following will be considered as one disability:
>
> "(1) disabilities of one or both upper

extremities, or of one or both lower extremities, including the bilateral factor, if applicable, or

"(2) disabilities resulting from a single accident [, or]

"(3) disabilities affecting a single body system, e.g., digestive, respiratory, cardiovascular-renal, neuropsychiatric.

"(b) Instances will arise in which the effect of a single or multiple disabilities not ratable as 100%, 1933 schedule, is regarded as sufficiently severe to incapacitate the average person, although the individual is employed under favor, or under special consideration, or upon work-relief, in lieu of, or supplementing, direct relief. Such cases will continue to be referred [to Central Office] under R.&P. R-1142."

Mr. Chairman, we have tracked the history of the individual unemployability benefit and provided the foregoing chronology for the purpose of demonstrating the importance that has been placed on it, the deliberations it has undergone, and the substantial amount of reasonable thinking that has been interposed in the development thereof.

The disability compensation program for veterans has been scrutinized by Presidentially appointed Commissions, Congressional Committees, and agency studies conducted by the Veterans Administration itself. The basic purpose of disability compensation has always been economic maintenance, and the loss of earning capacity as the result of disability has continued to be the primary rating criteria. However, it has also always been recognized that human life has values beyond the economic sphere and other factors such as a loss of physical vitality and shortened longevity must be taken into consideration. The Veterans Administration last year reviewed 68,086 cases of severely disabled veterans with total ratings based upon individual unemployability. Of those reviewed, approximately 5 percent were reduced. However, over three times that number were elevated to schedular 100% ratings.

Individual unemployability has survived all of the scrutinization, the studies, and the reviews of the compensation program virtually unscathed. It has stood the test of time. Is it now fair to assume that in an effort to produce cost savings that benefit should be placed in the same category as the nonservice-connected pension program? Should the payment of this entitlement to veterans, severely disabled as the result of service to their country, be limited by the amount they receive from Federal programs to which they have contributed when able to work? The American Legion thinks not. Mr. Chairman, we urge that section 201 of S. 2378 not be enacted.

Section 202 of this measure would amend section 315 of the title, so as to eliminate dependency allowance for those veterans with service-connected disabilities evaluated at 30 and 40 percent.

The American Legion is not in agreement with this proposal. These are serious levels of disability, and the dependency allowances are of direct help to the recipients who have dependents. A good illustration of the economic hardship that this proposal would create, if enacted, is given by comparing the compensation paid a veteran rated 50 percent disabled with that paid 40 percent - both have a spouse and three children:

Veteran with disability rated 50 percent	
Disability Compensation	$328
Additional compensation for wife and three children	$ 96
Total	$424
Veteran with disability rated 40 percent	$232

This is a difference of $192 per month, and would be a significant loss of income to a veteran with spouse and three children whose rating is reduced from 50 percent to 40 percent. Under current law the veteran with disability rated 40 percent receives compensation in the amount of $309 per month as the result of additional compensation for dependents. The American Legion, for these reasons, views section 202 of S. 2378 unfavorably.

Section 301 of this legislative proposal would amend Chapter 51 of the title by inserting a new section 3011, which would provide that payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension shall not be made for any period prior to the first day of the calendar month following the month in which the award became effective. In the interim, between the actual effective date and the date benefit payments actually commence, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of other laws administered by the Veterans Administration.

Under this proposed section, if any person who is in receipt of retired or retirement pay as the result of service in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service would also be eligible to receive compensation or pension upon the filing of a waiver of such pay, the waiver would not become effective until the first day of the month following the month in which the waiver was filed, and nothing in the proposed section would prohibit the receipt of retired or retirement pay for any period prior to such effective date.

The proposed section would apply to payments made pursuant to section 3110 of the title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.

Section 302 of this bill would amend section 3012 (b) (2) of title 38, by providing that the effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension, by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such change of status occurred. Under current law the effective date of the reduction or discontinuance is the last day of the calendar year.

Section 303 of the measure would amend section 3020 of the title by adding a new subsection which would provide that any payment of pension benefits to veterans, dependents and survivors under section 306(a) of PL 95-588, or section 521, 541, or 542 of the title shall be made only in an amount that is a multiple of $1. If the amount payable is not a multiple of $1, then it shall be rounded off to the next lower dollar.

The American Legion will accept these proposals, although reluctantly, as part of the effort toward fiscal restraint, as none of the foregoing would place a severe hardship upon the benefit recipient.

Section 304 of S. 2378 would amend section 501 of the title by adding a new paragraph which would, for pension purposes, change the definition of a dependent child while in education status. The term "child" would include a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen, but does not include a child over the age of eighteen who is not pursuing a program of education unless such child before attaining the age of eighteen became permanently incapable of self-support. The amendment would not apply to any child to or on behalf of whom pension or additional pension for the month of September 1982 would be payable under section 521, 541, or 542 if the child would attain the age of eighteen prior to October 1, 1982, the proposed effective date.

Section 304, if enacted, would further provide that pension payable to or on behalf of any child under section 521, 541, or 542 or section 306(a) of PL 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution would not be paid for the months of May, June, July, and August, beginning with the month of May 1982; and not be paid for any month after July 1985. This section would further provide that such pension benefits would not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of August 1981 (or a later month if the Administrator would deem a later month appropriate under the circumstances), reduced by an amount during the months after July 1982 and before August 1983, equal to 25 per centum of the benefit payable for August 1981 (or such later month); during the months after July 1983 and before August 1984, equal to 50 per centum of the benefit payable for August 1981 (or such later month); and during the months after July 1984 and before August 1985, equal to 75 per centum of the benefit payable for August 1981 (or such later month). The benefits would not be paid for any month after July 1982 if such pension or additional pension is discontinued at any time after July 31, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

The American Legion is opposed to the proposed change in definition of a dependent child from age 23, while in education status, to age 19, as well as the other proposed reductions in benefits contained in this section. Pensioners are by definition subsisting at the poverty level, and are in need of all the assistance that can be given them. Where there are children involved, in pursuit of an education, the loss of this benefit hurts not only the veteran but also jeopardizes the opportunity of the veteran's children to reach above the poverty level, through education and training advantages. Furthermore, the Legion is mandated by Resolution No. 250 (Ohio) approved by the 1981 National Convention, to seek improvements in the pension program for surviving spouses and children. The provisions proposed by section 304 are in direct conflict with the intent of our mandate.

S. 1956 - to amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans. This measure would amend Subchapter III of Chapter 17 of the title by estabishing a new section which would authorize the Administrator to reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services for which such veteran has made payment if the chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine; the veteran has been furnished hospital care by the Veterans Administration for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services; or to any veteran who has a service-connected disability rated at 50 per centum or more and has been furnished hospital care or medical services by the VA for a neuromusculoskeletal condition of the spine, to the extent that the veteran is not entitled to the chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services. The proposal would also provide for the establishment of a schedule of reasonable charges for chiropractic services; limit the amount payable under the new section for chiropractic services to an amount not to exceed $200 in any twelve-month period in the case of any veteran; provide that total expenditures for chiropractic services under the new section would not exceed $4 million in any fiscal year, and no reimbursement or payment would be made under the new section for chiropractic services furnished after September 30, 1985.

The American Legion recently engaged in a study of chiropractic as a health care alternative to veterans. The Chairman of the Legion's National Veterans Affairs and Rehabilitation Commission, upon recommendation of the Commission at its meeting in October 1980, appointed or Subcommittee on Chiropractic of the Veterans Affairs and Rehabilitation Commission. The Subcommittee was charged by the Chairman to inquire into the question of whether veterans should have greater access to chiropractic through programs administered by the Veterans Administration.

The Subcommittee issued its final report on August 29, 1981. We will not include a prolonged discourse of the deliberations of the Subcommittee in this statement, other than to say that it was concluded that legislation to statutorily strengthen veterans access to chiropractic, in seeking care from VA to which they are legally entitled, is not presently required, and it was recommended to the Veterans Affairs and Rehabilitation Commission that The American Legion should neither sponsor or support such legislation at this juncture. Therefore, the Legion does not view S. 1956 favorably. Mr. Chairman, a complete report of the Subcommittee on Chiropractic is attached herewith for the perusal of you and the Members of the Committee.

S. 2048 - to restore eligibility for burial benefits from the Veterans Administration in the case of certain war veterans whose bodies are not claimed.

This measure would amend section 902 of the title to provide that a deceased veteran of any war shall be deemed to have been in receipt of pension at the time of death (thereby eligible for burial allowance) if a State or political subdivision of a State certifies in writing to the Administrator that there is no next of kin or other person claiming the body of such deceased veteran; such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran. It is further provided that the payment made on behalf of the deceased veteran shall be paid to the State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred thereby. This amendment would take effect with respect to deaths occuring after September 30, 1981.

Mr. Chairman, the enactment of this legislation would be beneficial in alleviating situations which have been reported, albeit in some cases exaggerated due to absence of facts, in the news media where remains of deceased veterans have been held for extended periods of time in morgues because of lack of funds with which to provide them a decent burial.

However, The American Legion is of the opinion that the elimination of the burial benefit for veterans in the Omnibus Budget and Reconciliation Act of 1981 was a mistake, and that eligibility should be restored to all those who were entitled to this benefit prior to the enactment of that law. The burial benefit is the single monetary benefit that has been available to all war veterans to ensure that they receive a decent burial. In a substantial number of cases the burial allowance is the only Federal benefit received in recognition of the veteran's honorable wartime service.

The American Legion is mandated, as the result of Resolution No. 336 (Wisconsin) approved by the Delegates to the 1981 National Convention, to strive for the restoration and payment of the burial allowance for all veterans who were eligible prior to the enactment of PL 97-35.

S. 2381 - to authorize the Administrator of Veterans Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots. This measure would amend section 1819 (a)(1) of the title to provide that a loan may be guaranteed to refinance existing liens which are secured of record on a mobile home unit owned and occupied by a veteran as the veterans home, and simultaneously to purchase a lot on which to place the mobile home. It would also amend section 1803 (c)(3) of the title by providing that section 1803 shall not be construed to prohibit a veteran from paying a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used to refinance indebtedness and purchase a mobile home lot pursuant to the foregoing provision, but only with respect to that portion of the loan used to refinance indebtedness and cover the costs of necessary site preparation.

The American Legion has no objection to this proposal.

S. 2382 - to remove the bar against payment of Servicemen's

Group Life Insurance and Veterans Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State.

This proposal would amend section 770 of the title by striking the language which provides that if within four years after the death of a member or former member, payment has not been made and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of a revolving fund established in the Treasury of the United States; and by adding a new subsection which would provide that under no circumstances shall insurance payable under SGLI or VGLI escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.

The American Legion would not oppose the provisions of this measure.

S. 2388 - to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims.

In essence, this proposal would expand the group of individuals to whom a designated beneficiary of an NSLI or USGLI policy may assign all or a portion of the proceeds of such policy.

In reviewing section 718 of the title, the Legion is of the opinion that the category of individuals to whom assignments of all or any part of the beneficiary's interest may be made by the designated beneficiary is sufficient. Included therein are a widow, widower, child, father, mother, grandfather, grandmother, brother or sister of the insured.

According to information received from the Legion's Chief of Insurance Activities, with the exception of a small number of cases, the beneficiary of record at the time of a veteran's death is the individual to whom the insured intended the proceeds of the policy to be paid. We find no valid reason to enlarge upon the class of assignees designated under section 718, and therefore do not look favorably upon this legislative proposal.

S. 2460 - to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from additional disabilities.

This proposal would amend subsections (o) and (p) of section 314 of the title to liberalize the eligibility criteria for the payment of special monthly compensation to veterans suffering service-connected blindness, and who also have additional service-connected disabilities.

S. 2461 - to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from total blindness without light perception.

This bill would amend subsection (n) of section 314 to include veterans suffering total blindness without light perception in both eyes in the same category as veterans who have incurred the anatomical loss of both eyes for the purpose of special monthly compensation under this subsection.

The American Legion would certainly not oppose the liberalization of benefits proposed by S. 2460 and S. 2461, as the expansion of eligibility criteria would be beneficial to a small number of severely disabled veterans.

S. 2709 - to correct a technical error with respect to dependency and indemnity compensation.

This measure would amend section 410(b)(1) of the title so as to include language which would clarify the eligibility criteria for DIC benefits, and The American Legion is supportive thereof.

Amendment No. 1909 to S. 2378 - to provide for a more uniform minimum-service requirement for entitlement to certain benefits as a result of active duty service, and for other purposes.

This Amendment would amend section 3103A of the title to provide a minimum-service requirement, superseding section 977 of title 10, United States Code, for Federal benefits other than those provided under title 38 or administered by the VA, as well as for those that are. Those other benefits include certain social security, civil service, naturalization, Federal Housing Administration, Small Business Administration, and Farmers Home Administration benefits.

Currently, under title 38, there is a two-year minimum-service requirement for eligibility for most VA benefits. There are exceptions to this law. For instance, an exemption has been granted for 2-year enlistees discharged under section 1171 of title 10, United States Code, for the convenience of the Government up to 90 days prior to the conclusion of the 2 year enlistment. Also exempted are those veterans discharged with a compensable service-connected disability. The purpose of this Amendment is to bring the other Federal benefits currently contained in section 977 of title 10 under title 38, and provide the same exemptions thereto. For instance, we understand that the only civil service provisions affected are the veterans preference provisions other than those for veterans with compensable, service-connected disabilities. Since those who entered service after September 7, 1980 who have not incurred service-connected disabilities do not currently qualify for veterans preference, this proposal would only have an effect on veterans of some future war or outbreak of hostilities involving the U.S.

It is our understanding that information is not currently available as to the effect this proposal would have on all of the benefits and programs presently included under section 977 of title 10. The American Legion would not object to the application of the minimum-service requirement of 24 months, as contained in Amendment No. 1909, to those non-VA benefits on which data has been made available by the agency of jurisdiction. However, we reserve comment on those benefits on which this Committee has not received full information, until such information is available and the Legion has had the opportunity to review the manner in which such agencies and departments are applying the provisions of section 977.

Mr. Chairman, that concludes our statement.

REPORT
OF THE
SUBCOMMITTEE ON CHIROPRACTIC
TO THE
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
OF
THE AMERICAN LEGION
AUGUST 29, 1981

The Subcommittee on Chiropractic of the Veterans Affairs and Rehabilitation Commission was appointed by Chairman W. F. Lenker, upon recommendation of the VA&R Commission at its meeting in October 1980. The Subcommittee is composed of Chester F. Stellar, Ohio, Chairman; Vollie McCollum, Tennessee and Michael D'Arco, New Mexico, members. The members of the Subcommittee are members of the Veterans Affairs and Rehabilitation Commission.

The charge to the Subcommittee by the Chairman was to inquire into the question of whether veterans should have greater access to chiropractic through programs administered by the Veterans Administration.

The Subcommittee met at the Washington Office of the National Headquarters of The American Legion on January 28 and 29, 1981. An interim report was presented to the Chairman under date of February 4, 1981. This is the final report of the Subcommittee, subject to instructions from the Chairman and the Commission.

In sessions lasting one and one half days, the Subcommittee met with:

Dr. Donald L. Custis, Chief Medical Director of VA

Drs. John Cooper and Julius Krevans of the Association of American Medical Colleges

Dr. Paul Schafer, President, National Association of VA Physicians

Mylio Kraja, National Legislative Director, The American Legion

Dr. Irving B. Brick, Senior Medical Consultant to The American Legion

Dr. Thomas FitzGerald, Medical Consultant to The American Legion

Dr. Edwin M. Kenrick, President, American Chiropractic Association.

Dr. Kenrick was accompanied by a delegation of ten persons, including Ward Moody, a member of the VA&R Commission from Texas, and Rev. Paul Schwab of Nebraska, a Past National Chaplain of The American Legion.

Following receipt of statements from and discussion with those listed above, the Subcommittee engaged in extensive discussion of the subject.

In dealing with its subject, the Subcommittee took note of an action by a Subcommittee on Chiropractic of what was then known as the National Rehabilitation Commission, as reflected in the Proceedings of the National Executive Committee in May, 1954. In the report the Subcommittee stated: The subcommittee remained in informal executive session throughout, examining the wealth of material available to it with the utmost care and considering every aspect of an admittedly difficult matter. To clear the agenda, and for the guidance of the Rehabilitation staff, the committee recommends that all referred resolutions on the subject of chiropractic be rejected.

The recommendation in the Report to the National Executive Committee has guided the VA&R staff to the present time.

The Subcommittee further took note that in 1975, at the 57th National Convention, the Convention adopted Resolution No. 359 (Texas), reported by the Convention Committee on National Security, and which calls for chiropractic access to CHAMPUS, and also for inclusion of chiropractic in any national health insurance program to be enacted by Congress.

While the VA&R program does not include CHAMPUS in its scope, it does include CHAMPVA, a program that is funded by VA but administered by CHAMPUS. The American Legion position on national health insurance is set forth in Resolution No. 192 (Wisconsin), reported by the Convention Committee on Veterans Affairs and Rehabilitation, and adopted by the 1978 National Convention.

In its presentation to and discussions with the Subcommittee, the representatives from the American Chiropractic Association made clear that the specific desire of that organization is for access to the CHAMPUS program (presumably to include CHAMPVA), and also for access to the VA fee basis program for care of service-connected disabled veterans. A specific desire was not expressed to have chiropractors admitted to staffs of VA Medical Centers.

Dr. Donald Custis, VA Chief Medical Director, stated to the Subcommittee that if chiropractic is to be made available as a benefit to veterans, it should be under the aegis of and administered by the VA Department of Veterans Benefits and not by the Department of Medicine and Surgery. Dr. Custis stated the DM&S does not have the capability of credentialling chiropractors.

The representatives of the Association of American Medical Colleges, in their presentation to the Subcommittee stated that organization will oppose any effort to introduce chiropractic into the veterans medical care program. They stated it to be their opinion that chiropractic is not proven to be a scientifically valid healing art.

The Subcommittee is in receipt of a communication from the American College of Radiology which includes copy of a resolution approved by the Board of Chancellors and Council of The American College of Radiology in February 1969, and which the Subcommittee is advised, continues to be the policy of the organization. The resolve clauses of the resolution read: that the members of The American College of Radiology advise the people of the United States that they regard the use of radiation by chiropractors as unwarranted and without likelihood of significant medical gain; and be it further resolved that The American College of Radiology request federal and state health agencies to inform the public of the views of the College in regard to use of x-rays on patients by chiropractors.

Dr. Edwin M. Kenrick, D.C., President of the American Chiropractic Association, presented a comprehensive statement to the Subcommittee. The statement defended the scientific validity of chiropractic as a healing art, and the propriety of its availability to veterans.

In the statement, Dr. Kenrick said: We respectfully suggest that the time has come - and this hearing can provide the suitable occasion - for clear-cut action by The American Legion endorsing and espousing the provision of chiropractic care in all health programs of special interest to veterans, as well as those of more general interest to the entire American people. Chiropractic has come of age - and veterans want, and deserve to have, the right to chiropractic care when they want it.

In his conclusion, Dr. Kenrick stated: the ACA's position is simply this: (1) veterans should have the right under statute, in any Federal or Federally-financed health program, to choose chiropractic health care; (2) the present law preventing chiropractic inclusion in CHAMPUS is an improper and unfair discrimination against CHAMPUS beneficiaries who seek and want chiropractic health-care; it is also totally inconsistent with a whole range of Federal programs which provide authorization for chiropractic health-care for many American groups, but not to CHAMPUS beneficiaries; (3) the DOD's letter of opposition to this proposed program contains so many misstatements, inaccuracies and outmoded professional points of view, all to the detriment of CHAMPUS beneficiaries, that it is unworthy of reliance by The American Legion.

Dr. Kenrick's statement concluded: Therefore the American Chiropractic Association respectfully urges The American Legion to adopt as a basic policy a resolution supporting a) the inclusion of chiropractic in all health programs of special interest to veterans, and in particular b) the inclusion of chiropractic health care in CHAMPUS.

In acquiring information about the practice of chiropractic, the Subcommittee became aware that there is a difference within the chiropractic profession that appears to be clearly defined and vigorously pursued. The difference is identified as the "mixers," and the "straights." The best definition of the difference is drawn from the book "A Report on Chiropractic Politics and Education," published by the Chiropractic Foundation of America in 1979. (This Foundation appears to represent the "straights.") On page 48 of the volume the difference is defined as follows: Straights seek only to remove a particular kind of interference of the body's natural propensity to produce health. Mixers are primarily concerned with practicing an unlimited form of medical diagnosis and treatment of diseases.

The American Chiropractic Association, which met with the Subcommittee, appears to be identified with the "mixer" branch of chiropractic. The Subcommittee did not have the opportunity to meet with representatives of the "straights." The book, "A Report on Chiropractic Politics and Education," indicates that the differences between the "mixers" and the "straights" are openly unfriendly.

In researching the present statutory entitlement of veterans to chiropractic care, the Subcommittee took note of the attention paid to this matter during the course of the 96th Congress. In that Congress, the Senate Committee on Veterans Affairs issued Report No. 96-177, dated May 15, 1979, in connection with S. 1039, which was finally adopted as H.R. 3829 and became Public Law 96-151. S. 1039, in section 202 would have provided specifically for chiropractic services for veterans. This section did not survive conference, and was not included in PL 96-151. However, in the Conference Report, it was stated: It is the understanding of both Committees that the VA has the statutory authority, which it has to date chosen not to use, to provide chiropractic services directly, through chiropractors whom it may employ, as part of hospital care as defined in section 601(5)(A)(i) of title 38, and medical services as defined in section 601(6), to any veteran eligible to receive such care or services who is in need of chiropractic services, and to provide such chiropractic services on a contract basis under the general criteria prescribed in section 601(4)(C) for the provision of care and treatment on a contract basis.

Through contact with persons in the VA Department of Medicine and Surgery, the Subcommittee ascertained that the statutory authority for provision of chiropractic services is implemented in DM&S Manual M-1, Part 1, Chapter 18, as amended by Interim Issue 10-79-38, para. 18.03d. This Interim Issue is dated September 20, 1979.

Basically, what the Manual provides is that a VA physician has authority to refer a veteran patient to a chiropractor when the physician's professional judgment so indicates. At the time of this research, VA was able to identify only two instances in which such referral by a VA physician to a chiropractor has been made. In each of these instances, costs were in fact borne by VA.

During its meeting of January 28 and 29, and on the basis of all of the information outlined above in this Report, the Subcommittee proceeded to extensive consideration and discussion of its charge from the Commission.

The Subcommittee's first and underlying conclusion was that it is not a professional body, and therefore cannot evaluate the scientific validity of chiropractic as a healing art.

At the same time, the Subcommittee is obviously aware that chiropractic is a healing art that is practiced nationwide and is used by millions of people. It is a fact that every state has now established laws and regulations governing licensure for chiropractors.

It is also true that chiropractic is available, on a limited basis, under other Federally sponsored and funded health care programs, such as Medicare and Workmen's Compensation. These, and the others are third party payers, and there are no programs, to the knowledge of the Subcommittee, in which chiropractic care is delivered by Federally employed practitioners, as in the case of the VA medical care program for veterans.

The question that remains for the Subcommittee is whether legislation is needed or indicated to statutorily strengthen veterans access to chiropractic, in seeking care from VA to which they are legally entitled.

The Subcommittee concludes that such legislation is not presently required, and it recommends to the Commission that The American Legion should neither sponsor or support such legislation at this juncture.

The reason for this conclusion is that the Subcommittee's research satisfies it that there is presently in law, sufficient authority for veterans to receive chiropractic care when they so desire and when that desire is added to the professional judgment of a VA physician. It is admitted that what is needed and recommended is greater utilization of existing statutory authority for use of chiropractic in the VA system. However, this would require a change in attitude on the part of many physicians toward chiropractic, and that fact is something over which The American Legion has no control.

If a greater acceptance of chiropractic within the VA medical care program is not achievable, then the alternative is legislation establishing chiropractic as a health care alternative available to veterans - in other words, another veteran benefit program. It is the conclusion of the Subcommittee that the establishment of such a new program is neither feasible nor advisable - as far as American Legion sponsorship is concerned - given the present climate of fiscal austerity in which the nation finds itself.

The American Legion is hardpressed to defend the current veterans benefits programs. The proposed VA Budget for Fiscal Year 1982 (commencing on October 1, 1981) will approximate $24.8 billion, of which more than $7 billion will be for medical care. This is what is known as a straightline budget, that will maintain veterans programs, including the medical care program, strictly on a status quo basis, with no improvements or expansions. These straightline budgets are already having a constricting effect on VA medical care. It is impossible to maintain quantity and quality of care this year on last year's dollars - not in a period of double digit inflation such as the nation has experienced for the past several years.

The Subcommittee reiterates that in this climate, it is not timely for this organization to sponsor new programs.

Therefore, the specific recommendation of the Subcommittee to the Commission is that section 601 of title 38, United States Code, presently includes ample authority for referral of veteran patients to chiropractors, where desired by the veteran and medically indicated; and that The American Legion should not sponsor or support at this time any legislation that would modify the present statutory authority set forth in section 601 of title 38, USC, and implemented in DM&S Manual: M-1, Part 1, Chapter 18 as amended by Interim Issue 10-79-38, para. 18.03d.

And it is finally recommended that the Commission should continuously monitor the use of chiropractic within the VA, so that bona fide data is available for further study of the matter should it be needed.

PREPARED STATEMENT OF JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the 720,000 members of the Disabled American Veterans, may I say that we deeply appreciate this opportunity to present our views on legislation relating to the Service-Connected Disability and Death Compensation Programs of the Veterans Administration.

S. 2378

Introduced in the Senate on April 15, 1982 at the specific request of the Administration, this measure draws very "mixed reactions" from the DAV. I say this, Mr. Chairman, as the bill alternately proposes to both increase and decrease existing VA disability compensation benefit levels, playing, if you will, a cruel "good news/bad news" joke on hundreds of thousands of service-connected disabled veterans.

With your permission, I shall first address the "good news" provisions of this paradoxical measure.

Title I of S. 2378 would authorize an 8.1% across-the-board increase in basic disability compensation and DIC (service-connected death) benefit rates. This same percentage rate of increase would also be extended to the dependency allowances and, with one exception, to the special statutory awards and ratings that apply to the compensation and DIC programs, as well as to the VA's annual clothing allowance payable to certain service-connected veterans whose prosthetic or orthopedic devices cause unusual damage to clothing. The proposed increases carry an effective date of October 1, 1982 and would require $771 million in increased budget authority in Fiscal Year 1983.

Put in more meaningful terms, Mr. Chairman, the benefit increases would range from an additional $60 per year ($5 monthly) for a veteran with a 10% service-connected disability to $1,104 more per year ($92 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to a service-connected disability.

Mr. Chairman, in any consideration of an increase in VA disability and death compensation payments, it is important to recall the principles upon which these programs were established:

> Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earnings capacity caused by service-connected disabilities. DIC benefits, on the other hand, are intended to provide a measure of financial security to widows and children in view of the service-connected deaths of their husbands and fathers.

Over the years, this Committee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising cost of goods and services. The most recent adjustment of these rates (Public Law 97-66) represented the eighth such annual increase in as many years.

Looking at the rise in the Consumer Price Index (all urban consumers, seasonally adjusted) for each of the three months immediately following the last compensation adjustment (October, November, December, 1981), we see increases of 0.4%, 0.5% and 0.4%, respectively. During the first five months of 1982 the rate of CPI growth has been 0.3%, 0.2%, 0.3%, 0.2% and 1.0%.

Though it is a bit premature to characterize this downward movement in the CPI as a permanent "trend," we hope, as do all Americans, that it will continue. If this should occur, then obviously the actual CPI movement between October 1 of last year and September 30 of 1982 will be somewhat less than the percentage increase proposed in the pending bill.

As you are aware, Mr. Chairman, recent Congressional action on the First Concurrent Budget Resolution has "targeted" sufficient VA funding to allow for a 7.4% across-the-board increase in all disability compensation/DIC benefit rates. In our opinion, by October 1 of this year, this 7.4% estimate may well have proven itself to have been a highly accurate projection of CPI movement during the period 10/1/81 through 9/30/82.

Mr. Chairman, before leaving Title I, I do wish to make specific note of the fact that in its provisions, S. 2378 does not include the "K" award set forth in Section 314(k), Title 38, USC. This is a special monthly benefit--presently $62--paid in addition to the basic rates of compensation of certain veterans who have incurred the service-connected loss or loss of use of a single extremity or certain other body organs and functions.

This particular award has not always been included in prior compensation bills and was last increased to its present figure by Public Law 96-128, approved November 28, 1979. We therefore ask the Committee to include the "K" award in any compensation bill that it may recommend to its Senate colleagues.

Now for the "bad news."

Titles II and III of the bill would amend current law so as to reduce existing benefit levels for hundreds of thousands of service-connected disabled veterans across America. These ill-conceived proposals would negate benefit liberalizations recently approved by the Congress and, in our opinion, do fundamental damage to program integrity, paving the way for future, equally horrendous deterioration.

Let us look at these proposals, Mr. Chairman. The following is what the Administration is asking this Committee to recommend:

1. Substantial reductions in the monthly compensation checks of some 113,000 totally and permanently disabled veterans who have established that they cannot work due to their service-connected disabilities, if such veterans are in receipt of any other federal benefit based upon disability or retirement. The words "any other" mean just that--old age Social Security payments (OASI), disability Social Security payments (SSDI), civil service retirement pay, black lung benefits, railroad retirement pay, Post Office retirement pay, etc.

2. Elimination of the dependency allowance portion in the compensation checks now received by 314,000 veterans who are rated either 30%-or 40% service-connected disabled.

3. Delaying the effective date of payment for an award of compensation and DIC benefits until the first day of the first calendar month following the authorizing action (currently benefit entitlement commences the same day eligibility is established by a VA Rating Board).

4. Changing the so-called "end of year" rule which governs discontinuance of compensation payments due to a change in dependency status to the "end of month" rule (the

> effect--causing the benefit reductions to occur anywhere from one month to eleven months sooner, depending upon the date the dependency loss occurred in a given calendar year).

Mr. Chairman, I cannot overemphasize the extent of DAV opposition to these benefit reduction proposals, especially those that would impact upon totally disabled "unemployable" service-connected veterans and those with 30% and 40% disability ratings.

Regarding the proposed offset in benefits for the totally disabled veteran, it is important to note that consideration for a 100% payment due to "unemployability" has been in the VA's Rating Schedule for over 50 years (the 1925 VA Rating Schedule provided for such consideration and the unemployability criteria as we know it today has existed since 1941 [extension number 4 of the 1933 Rating Schedule effective 11/15/41]).

To put it in the simplest of terms, the "unemployability" provisions of current regulation were designed to give the VA the authority to authorize a 100% rate of payment to certain severely disabled veterans (60-90% service-connected disabled) who have established that they cannot work due to their service-connected disabilities and who, because of the percentages assigned to them under the Rating Schedule and formula governing computation of combined ratings, cannot achieve a 100% schedular rating (and therefore a 100% payment).

In essence, then, the unemployability provisions of the Rating Schedule address (and correct) an anomaly--thereby assuring that severely disabled service-connected veterans who cannot work can receive consideration for a total rate of payment, notwithstanding unintended deficiencies that exist in other portions of the Schedule.

It is the compensation benefits of these "fixed income" totally disabled veterans that the Administration wishes to reduce, in effect, literally taking away completely or reducing substantially other earned, paid for federal entitlement.

Inconceivable as it may seem, the Administration is saying that a totally disabling combat disability and compensation received for such disability are grounds for taking away Social Security benefits that have been paid for during the years these veterans were able to work and be productive citizens. We would hope that the members of this Committee and the Congress would agree with us in saying that there is not one iota of merit to such a preposterous assertion.

The DAV finds the proposal for elimination of dependency allowances of 30% and 40% disabled veterans to be equally lacking. These benefits were extended by the Congress just three years ago (Public Law 95-479) after careful consideration. Other than the obvious desire to "save" federal expenditures, the Administration has advanced no compelling arguments or justifications for their removal. Perhaps the Office of Management and Budget would care to explain to a veteran who lost a leg below the knee, or to a veteran with an empty eye socket (both 40% ratings), just why these additional "sacrifices" are necessary.

I shall not belabor the point, Mr. Chairman. We urge that the Committee reject the proposed reductions in benefit levels for our nation's service-connected disabled veteran population.

S. 2381, S. 2382 & S. 2388

Through appropriate amendment of Title 38, U. S. Code, these bills propose:

1. To authorize the VA Administrator to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots (S. 2381).
2. To remove the bar against payment of Serviceman's Group Life Insurance (SGLI) and Veteran's Group Life Insurance (VGLI) in the event a claim for insurance proceeds is filed late, and to clarify that such proceeds may not escheat to a state (S. 2382).
3. To prevent the unrestricted assignment of a beneficiary's interest in the proceedings of a Government Life Insurance policy in cases involving contested claims (S. 2388).

Mr. Chairman, the DAV has not received any mandate on these subjects from the delegates to our most recent National Convention. We therefore have no official position on the issues contained in the pending bills.

S. 2048

Through appropriate amendment of Section 902(a), Title 38, USC, this bill would provide eligibility for burial benefits to certain deceased veterans whose remains are unclaimed.

Mr. Chairman, as we understand the measure, it addresses a recently brought to life inequity associated with the nonservice-connected burial benefit restrictions instituted by Public Law 97-35, the Omnibus Reconciliation Act of 1981.

As you are aware, that Act modified the eligibility criteria for the VA's nonservice-connected burial allowance ($300), restricting such awards to the survivors of wartime veterans who, at the time of their death, were in receipt of (or entitled to receive) VA disability compensation or nonservice-connected pension benefits.

Subsequent to Public Law 97-35, it was brought to the attention of this Committee that the remains of a few deceased wartime veterans who (1) had no next of kin and who (2) did not meet the new eligibility criteria were in danger of not receiving a timely, appropriate burial. The pending bill would insure that such situations would not arise.

The DAV supports passage of this measure.

S. 1956

This measure, through appropriate amendment of Title 38, USC, proposes to authorize reimbursement (by the Veterans Administration) for the reasonable charges for chiropractic services provided to certain veterans.

Briefly, Mr. Chairman, the bill would authorize a maximum reimbursement of not more than $200 in any 12 month period for chiropractic services (the manual manipulation of the spine performed by a chiropractor) if:

1. Such services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,
2. The veteran had been furnished hospital care by the VA for a neuromusculoskeletal condition of the spine within a 12 month period prior to the services, or
3. The veteran has a service-connected disability rated 50% or more disabling and has been furnished VA hospital care or medical services for a neuromusculoskeletal condition of the spine.

Under the bill's provisions, the VA could expend no more than $4 million for such reimbursement in any one Fiscal Year and no reimbursement or payments by the VA for chiropractic services could be furnished after the completion of Fiscal Year 1985 (9/30/85). S. 1956 also requires the VA Administrator to report to the Veterans Affairs Committees of the Congress on their "chiropractic activity"--the implication being that consideration would be given to either extending or making permanent the temporary authority proposed by the bill.

Mr. Chairman, the DAV supports enactment of S. 1956 into law. A resolution, calling for the extension of "chiropractic services to eligible veterans" was approved by the delegates to our most recent National Convention.

As you are aware, Mr. Chairman, present law and regulation does not prohibit the VA from employing chiropractors in the system or reimbursing them for the furnishing of services to veterans. However, the VA's Department of Medicine and Surgery has always been extremely reluctant to take such initiatives. Recognizing this reluctance, the Congress placed language in the report which accompanied Public Law 96-151 (enacted 12/10/79) which urged the VA to reevaluate its position (on chiropractic treatment) and use its existing authority to provide, at least on a pilot basis, chiropractic services in appropriate cases as part of their hospital care and medical services to veterans.

Mr. Chairman, we have seen no evidence of VA interest in this area whatsoever. Subsequent to the enactment of Public Law 96-151, the DAV wrote to the VA's Chief Medical Director, inquiring if the VA intended to heed the recommendations of the Congress. The reply we received was most disheartening. Regarding the possible employment of chiropractors by the VA--again, something that is not prohibited by current law--the Chief Medical Director stated:

> ...The implementation of a resolution which proposes that the VA employ chiropractors on a pilot basis would mean that such chiropractors would be supervised by physicians. Such an arrangement, however, would not seem wise or practical since it is highly unlikely that chiropractors would consent to physician supervision as do other allied medical disciplines. Also, American physicians generally do not subscribe to the use of chiropractic as an accepted method of therapy. Our endorsement of a chiropractic pilot program, therefore, would be professionally unwarranted and an abrogation of our responsibility to VA patients. It is our view that the current treatment resources available in VA facilities are sufficiently varied and flexible to meet the needs of VA patients. We have no plans at this time to increase the availability of chiropractic services within our medical programs.

It is obvious to us, Mr. Chairman, that the VA will not make chiropractic services generally available to veterans unless it is required to do so. We therefore urge favorable action on the pending bill.

S. 2460 & S. 2461

These measures, through appropriate amendment of Title 38, U. S. Code, propose to:

1. Provide increased awards of disability compensation benefits to certain blinded veterans who also are service-connected for the disabilities of deafness or the loss or loss of use of a hand or a foot (S. 2460).
2. Provide increased awards of disability compensation to certain veterans who are suffering from total blindness without light perception (S. 2461).

Mr. Chairman, the DAV has not received any mandate from the delegates to its most recent National Convention similar to or identical with the goals contained in these two bills. However, noting that they address the needs of severely disabled, service-connected veterans, we urge the Committee to give them full consideration.

S. 2709

Mr. Chairman, this measure addresses an inequity that has come to DAV attention with respect to the "presumptive" DIC payments that were recently authorized by Public Law 95-479. We deeply appreciate the fact that you have responded to our request for its consideration during today's proceedings.

As you are aware, Public Law 95-479 authorized the payment of DIC benefits to the survivors of veterans whose deaths were not service-connected, if such deceased veterans had been continuously rated as service-connected, totally disabled for ten or more years immediately preceding death, or if for a lesser period, were totally disabled for a period of not less than five years from date of discharge from service.

It has been recently held by the VA General Counsel, and now considered policy by the VA, that when such a totally disabled veteran dies, DIC is payable only in those instances where the veteran had actually been *in receipt of compensation* at the 100% rate for ten or more years. An exception is made if a veteran is not in receipt of compensation due to the receipt of military retirement pay. However, no concessions are made for those veterans who are found to have had entitlement to receive the 100% rate but, *based upon the presence of a clear and unmistakable error in a previous VA decision*, did not actually receive the compensation payment for the full ten years.

It is with this policy that the DAV takes issue. We feel that if the facts of the case are sufficient, and the veteran, except for VA error, would have been entitled to receive VA compensation at the 100% rate for ten years prior to death, entitlement to DIC payments should be extended.

VA General Counsel, however, has held that a clear and unmistakable error in a previous decision cannot be declared posthumously to create entitlement to DIC benefits, as during the veteran's lifetime available remedies of law existed. Should the veteran have felt that the percentage evaluation for disability was arbitrarily low (the GC argues), these remedies could have been applied. The General Counsel also stated that if a clear and unmistakable error existed, then it would be very unlikely that it would have gone unremedied if the veteran exhausted all avenues of redress.

While there may be a degree of credence to this opinion, Mr. Chairman, we believe that such an argument cannot be applicable in all cases. We are reminded that not all veterans have or seek representation from the accredited service organizations and that there are areas of VA law, regulation and disability evaluations that are so technical in nature that the average veteran would not be in a position to question a VA decision.

Prior to the General Counsel's Opinion (March 24, 1981), the Board of Veterans Appeals (BVA) had latitude to correct a previous error for the purpose of establishing entitlement to DIC payments under Section 410(b)(1), and we are aware of one such decision. However, since publication of the General Counsel's

Opinion, VA policy has been established which precludes BVA from allowing DIC benefits in these circumstances. A recent decision made by the Board dealt with a service-connected veteran rated totally disabled for 9 years, 361 days immediately preceding death. An allegation of VA error that would have established an earlier effective date was dismissed by the Board as being moot, even though the allegation was correct.

Accordingly, Mr. Chairman, we respectfully request that the Committee act favorably on S. 2709 for it would correct this inequity. There is no significant cost factor associated with this bill.

Amendment No. 1909 (to S. 2378)

This measure would amend current law so as to place in effect a more uniform minimum service requirement for eligibility to federal benefits based upon active duty in our nation's Armed Forces.

The Department of Defense Authorization Act, approved in the Fall of 1980, and the subsequent enactment of Section 608 of Public Law 97-66, approved in October of last year, both addressed the issue of a two year minimum service active duty requirement for basic eligibility to benefits administered under Title 38, U. S. Code. Amendment No. 1909 would apply this same standard to certain other federal benefits (not administered by the VA) the eligibility to which is based upon active military service.

Mr. Chairman, the DAV has no official position on this amendment, having received no mandate on this subject from the delegates to our most recent National Convention. We will state, however, that fundamental basic eligibility requirements should be uniformly and consistently applied to all federal veterans' benefit programs.

* * * *

This completes my statement, Mr. Chairman. Thank you very much for giving us the opportunity to appear here today.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

PREPARED STATEMENT OF

JAMES N. MAGILL, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO A COMPENSATION COST-OF-LIVING
INCREASE AND OTHER LEGISLATIVE PROPOSALS

WASHINGTON, D. C. JULY 13, 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the privilege of appearing before this distinguished Committee to present the views of the Veterans of Foreign Wars of the United States.

Mr. Chairman, the first measure we will address, S2378, introduced by you, amends Title 38 to increase the rates of disability compensation for disabled veterans; increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and various cost-saving proposals.

The basic element of all veterans benefits is the compensation program, which benefits approximately 2.2 million veterans for loss of earning power due to their service-connected disability; and the dependency and indemnity compensation program for the approximately 350,000 survivors of veterans who were killed while on active duty or who suffered a service-connected disability and were permanently and totally disabled at the time of death. We are of the position that any cost-of-living increase should be uniform and at least commensurate with that reflected by the consumer price index; VFW Resolution No. 779 entitled "Cost-of-Living Increases for VA Beneficiaries," supporting this position, is appended to my statement for your review.

In addition to the compensation increase, S2378 contains several cost-savings measures which the VFW views as regrettable and some unavoidable considering the serious economic situation our country finds itself. Delaying both compensation and pension benefits to the first full month of entitlement; change the end-of-the-year rule to end-of-the-month rule; and rounding pension payments to the next lower dollar are steps which will attain reduced spending while at the same time not undermining the basic integrity of the compensation, pension and health care programs of the Veterans Administration. We do, however, have objection to certain provisions contained in the bill. The VFW opposes in the strongest terms the reduction of VA compensation awards predicated upon an extra schedular rating due to unemployability. Compensation for service-connected disabilities has historically been payable regardless of any other income to which the veteran is entitled. In addition, we question to what extent cost-savings may be realized. A study conducted by the VA revealed that many veterans rated 100 percent due to unemployability actually were entitled to a schedular 100 percent rating.

We also oppose the provision to eliminate the additional allowances for the dependents of the approximately half million veterans rated 30 and 40 percent service-connected disabled. We believe the allowance is warranted since veterans with certain amputations and those who suffer the enucleation loss of one eye are included in this group.

Finally, with respect to S2378, we have no objection to the amendment proposed by you and the ranking minority member to limit veterans benefits entitlement to those in the regular establishment who have 24 months continuous active duty with certain exceptions.

S2381, introduced by you, would authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots. In most cases, a veteran owning a mobile home must rent a lot in a mobile home park. Recently, mobile home park proprietors are opting to offer their lots for sale, such as in apartment/condominium conversion. S2381, which the VFW supports, would give the veteran the opportunity to refinance a mobile home to include the price of a lot; thus eliminating the need to relocate.

The next two bills, again introduced by the Chairman of this Committee, relate to government insurance programs. S2382 amends Title 38 to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event a claim is filed late and to stipulate such proceeds may not revert to a state. S2388 permits the unrestricted assignment of a beneficiary's interest in the proceeds of a government life insurance policy in cases involving contested claims. This bill would not deny a beneficiary their rightful interest; only broaden the options available to the beneficiary. The VFW supports and encourages the enactment of these two pieces of legislation.

S2048, introduced by the Honorable Alan Cranston and other members of the Committee, restores eligibility for burial benefits to those veterans of war whose remains are not claimed. Mr. Chairman, the VFW opposed the elimination of the burial benefit and we view this bill as a compassionate "step in the right direction" to restore the benefit to a most deserving group. We do not believe this bill will generate substantial cost and urge its timely passage and enactment.

S1956, introduced by the Honorable Strom Thurmond, amends Title 38 to authorize reimbursement for the reasonable charge for chiropractic services for certain veterans. The VFW supports this bill as is mandated by the intent of Resolution No. 755 entitled "Chiropractic Care Through Champus and Champva," which is also appended to my statement for your review.

S2460, introduced by the Honorable Jennings Randolph, provides for an increase in awards of service-connected compensation to blinded veterans who are also suffering from service-connected total deafness in one ear, or have suffered the anatomical loss or loss of use of a hand or foot. Another bill introduced by Senator Randolph, S2461, provides increased awards for service-connected compensation to certain blinded veterans who are suffering from total blindness without light perception. Currently Title 38 does not provide distinction between blindness with or without light perception. The VFW supports the passage and enactment of S2460 and S2461.

Finally, Mr. Chairman, the VFW has no objection to the bill, introduced by you to correct a technical error with respect to entitlement to dependency and indemnity compensation.

This concludes my statement. Again, I would like to thank the Chairman and the Committee for the opportunity to present our views. I will be happy to respond to any questions you may have.

Resolution No. 779

COST-OF-LIVING INCREASE FOR VA BENEFICIARIES

WHEREAS, payments to VA beneficiaries have continued to be eroded by inflation; and

WHEREAS, many of those in receipt of these benefits are on limited or fixed income; and

WHEREAS, many other segments of society have a greater opportunity to increase their incomes whereby they are not so adversely effected by those increases; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we urge Congress to enact legislation that will provide annual increases in an amount at least commensurate with the Consumer Price Index for all Veterans Administration beneficiaries.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 779

Resolution No. 755

CHIROPRACTIC CARE THROUGH CHAMPUS & CHAMP VA

WHEREAS, the health of its citizens is important to the strength of our country, and medical benefits provided to our disabled veterans and service men and their dependents thru CHAMPUS and CHAMP VA are intended to provide optimum health care; and

WHEREAS, the confidence of a patient in his physician has proved a major factor in the recovery of that patient, freedom of choice of physician is in the best interest of the welfare of the patient; and

WHEREAS, chiropractic care does, in many cases, alleviate the need for hospitalization, and hospitalization is the major escalating factor in financial cost to the government and mental anguish to the patient, all health care resources available to minimize hospitalization should be utilized; and

WHEREAS, chiropractic is a well recognized, distinctive, scientific healing art; and

WHEREAS, a chiropractic physician is a well trained man of science with at least four years academic professional training in addition to his academic pre-professional training; and

WHEREAS, failure to include chiropractic care for recipients of service under the medical benefits provided under CHAMPUS and CHAMP VA is discriminatory not only against chiropractic physicians, but also against our comrades in arms who fought and were disabled in defense of our country and for its continued freedom; and

WHEREAS, our disabled comrades carry a VA out-patient card entitling them to care by a licensed M.D. or D.O., but not a D.C.; and, since most D.O.s no longer do manipulations, our disabled comrades are being denied a freedom for which they fought, that of freedom of choice of health care, when manipulative therapy might relieve their pain and/or disability; and

WHEREAS, the VFW has supported similar measures in convention since 1973; now therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we do re-affirm this stand and urge all members of Congress and the President of the United States to make chiropractic care and the services of chiropractic physicians available to all recipients, who so desire, under medical benefits provided through CHAMPUS and CHAMP VA.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Chairman SIMPSON. Next we have Mr. R. Dennis Smurr, who is the associate legislative director of the Paralyzed Veterans of America; and Ellsworth Sharpe, national president and chairman of the board of directors of the Blinded Veterans Association; and Max J. Beilke, the legislative counsel of the National Association for Uniformed Services.

I understand this is your first presentation before this august body, Mr. Smurr.

Mr. SMURR. That is correct, Mr. Chairman.

Chairman SIMPSON. Have no fear. [Laughter.]

We are glad to have you with us and we look forward to having your comments. Thank you.

TESTIMONY OF A PANEL OF REPRESENTATIVES OF VETERANS' ORGANIZATIONS CONSISTING OF R. DENNIS SMURR, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; ELLSWORTH L. SHARPE, NATIONAL PRESIDENT, BLINDED VETERANS ASSOCIATION; AND MAX J. BEILKE, LEGISLATIVE COUNSEL, THE NATIONAL ASSOCIATION FOR UNIFORMED SERVICES

Mr. SMURR. Thank you, Mr. Chairman. My name is Dennis Smurr. I am associate legislative director for the Paralyzed Veterans of America.

The PVA would summarily offer its endorsement, with the comment as elaborated in our testimony as submitted for the record, on the following legislative proposals under consideration today; namely, S. 1956 authorizing chiropractic services, S. 2381, allowing for VA guaranteeing of liens on mobile home loans; and S. 2382 and S. 2388, revisions to the veteran health insurance plans.

In addition, PVA wholeheartedly endorses S. 2084 as introduced by Senator Alan Cranston which will restore burial benefits to certain veterans of war whose bodies are not claimed.

Mr. Chairman, PVA wishes to endorse the language or the intent of S. 2460, and S. 2461. PVA can fully empathize with our blinded veteran friends as to their reasoning and rationale for requesting award rate especially expressly when we consider the proposals are referring to additional or compounding disabilities.

PVA acknowledges and supports the intent of S. 2709 as introduced to correct the technical error with respect to DIC entitlements. PVA views this corrective language as being an extremely just and equitable expansion of the DIC entitlements, especially for the surviving family member, if upon a case review it becomes apparent that a deceased veteran had been eligible but had not availed himself of benefits due him.

Regarding S. 2378, the proposed Veterans Disability Compensation Survivors Benefits Amendments of 1982, Mr. Chairman, compensation is for PVA's members an extremely important and necessary entitlement because for catastrophically injured veterans it remains to be, for many of them, their primary source of income.

PVA fully understands the purpose of compensation benefits is to offset the diminished earning capability of service-connected disabled veterans. We recognize too that in this time of budget cutting restraints, it is becoming more and more difficult for Congress to insure that American veterans do not suffer reductions in their relative economic well-being. We are grateful, Mr. Chairman, that the language of S. 2378 recommends an equitable, across-the-board increase in this year's disability compensation and DIC rates, especially after earlier considerations that would have increased compensation rates for some categories but for others.

In conclusion, PVA appreciates the delicate forces that come into play when a Nation, as represented by its Congress, attempts to balance obligations encountered by services rendered in the past with those constraints encountered by current economic endeavors. It is obvious to us all, however, that the cost of military conflicts and national defense continued for many years after individuals have served our Nation in uniform. Therefore, PVA commends the members of this comnittee and of Congress for their efforts to deal with the problems at hand. Thank you, Mr. Chairman.

Chairman SIMPSON. Thank you very much, Mr. Smurr, for your helpful testimony.

Mr. Sharpe, please.

Mr. SHARPE. On behalf of the Blinded Veterans Association, I would like to thank this committee for inviting us today to address important issues of veterans compensation.

First, I would like to address the two bills that were presented by Senator Randolph. These two bills have to do with blindness and title 38, and section 314 of the VA's schedule for compensation.

Senate bill 2460 relates to veterans with multiple disabilities. Presently the VA rates someone independently of the interaction of the two disabilities.

Now, an example of this would be someone with a total hearing loss in one ear. If they were blind or if they were not blind, they would be rated 10 percent. Now, this is just for the hearing loss of course. Nowhere does the VA also consider the hearing loss in combination with the blindness.

A blinded veteran uses his hearing as well as his tactile senses to makeup for his vision loss. In crossing the street, for instance, a car could be coming in whatever direction and, if he has hearing in both ears, he has a feel from what direction the car is coming and he can avoid that car, perhaps. At least, it helps his mobility in stopping. If he has only hearing in one ear, this directional sense is lost. So this creates a big problem, much more than if someone could see and lost the hearing in one ear.

Likewise, for someone who lost one hand, for instance, holding this microphone. If you can see the microphone you can grab it with a prosthesis, perhaps. But, if you have to feel around and get some feedback or I am trying turn on a radio, I need some feedback, well, the disability is much worse than might meet the eye.

Likewise, when crossing the street, when you feel the curb with your foot to make sure that it is there, if you have a prosthesis for one foot, then the feedback becomes more difficult and it can't be coped with by some people.

In the written version of the VA testimony, they mentioned this would raise multiple handicapped, blinded veterans up perhaps too high in relation to everyone else. They mentioned in particular it was too high in relation to someone that is a double amputee or someone who is a quadriplegic.

Well, you know, we are comparing apples and oranges. I would hate to even compare a double amputee and a quadriplegic. I don't think that they can do that. For everyone, it has to be based on his own disability. The other bill that was presented by Senator Randolph has to do with totally blinded veterans being rated in some cases less than people with deformed eyes and scarring that have no light perception. The real disability, we feel, is in the loss of vision and not necessarily the loss of the eye or the scarring.

For other disabilities, the schedule says "loss of" or "loss of use of," they are compensated equally. This is a case where the "loss of use of" is not compensated equally with "loss of". In fact, you could be compensated less for "loss of use of".

I would also like to refer to the 8.1 percent which was the initial amount of disability increase based on inflation. We have to keep in mind that this was compiled based on March figures. We don't get that increase in compensation until October. Therefore, we are 6 months behind.

Another question I would like to address has to do with people on pension. The VA proposes to change the definition of dependents for people that are on pension.

In other words, they are going to change it from 23 to 18 when they can still receive benefits for that dependent. This of course makes it tougher for these people to go to college. The Federal Government has cut back already in college grants or whatever and education costs are going up.

We think that this will discourage people from going to college and we believe that, in the long run, it will hurt the country. Less money will come in. When people go to college they increase the amount they will pay in their lifetime in taxes.

The rest of our testimony is included in the written version and also what we gave last February.

Chairman SIMPSON. Thank you very much, Mr. Sharpe. It was very helpful.

Mr. Beilke, please.

Mr. BEILKE. Thank you, Mr. Chairman. As always, it is an honor and a pleasure to appear before this committee. In the interest of time I will briefly highlight just a couple of items in my written testimony.

First is the increase in the service-connected disability compensation and DIC benefits. We believe an increase is in order and we believe in a minimum 7.4 because other recipients of Federal programs have already received this. So we feel a minimum of 7.4 is justified.

Second, any reduction in the compensation for those 100-percent disability ratings based on unemployability is opposed; likewise, we oppose the reduction in education benefits. I want to thank this Committee for opposing these two cost-saving measures.

Finally, just briefly I would like to touch on the proposal for minimum active duty service requirements for benefit eligibility. I noticed in the June 30, 1982, Congressional Record where Senator Cranston is concerned that active duty personnel might be barred by the minimum service requirement from receiving credit for their military service with respect to calculations in the length of Federal service for purposes of retirement. This concern is almost academic because, under Public Law 84-881, credit for social security-covered military service after 1956, is deleted from civil service annuities at the time the individual becomes eligible for social security whether he receives it or not.

So, therefore, we are worried about applying military service up until the man is 62 and then taking it away from him at age 62 under Public Law 84-881. This is Senator Thurmond's bill, S. 46.

That concludes my remarks. I am prepared to answer any questions.

Chairman **Simpson**. I think you heard my questions as expressed to the previous panel and I might inquire of your thoughts as regards the compensation COLA and the handling of that on an annual basis rather than the indexing of it, your position on that. I would be interested in that, please.

Mr. Smurr, please.

Mr. **Smurr**. Mr. Chairman, speaking for myself at the moment, I see definite advantage of having annual hearings regarding compensation DIC entitlements but at the same time I can also see a bit of a guarantee, like having your cake and eating it, too, I guess, indexing the increases so the people would be assured that their diminished earning capability would not be adversely affected by the ravages of inflation. But, I would still stay with the fact that the annual review of the entire pension, disability compensation and DIC entitlements is a very necessary part of the total program.

Chairman **Simpson**. Yes. Mr. Sharpe, your comments, please.

Mr. **Sharpe**. The Blinded Veterans Association has in the past discussed this matter and we believe that we would rather have it not indexed and brought before the committee every year because other points can be considered, as well. And also for myself, I still believe in Santa Claus. But I do not believe that the Congress would let us get less money than the other people that are involved with indexing.

As far as the two bills that are sponsored relevant to blindness, we believe that the code was wrong from the beginning and this legislation corrects the wrong that was done. We don't think that the VA has done it on purpose. We believe that it was done accidentally and the disabilities should be treated equally. We don't think that this will bring on the bandwagon for everybody who wants to get more money for their particular disability.

Chairman **Simpson**. Thank you. Mr. Beilke, please.

Mr. **Beilke**. You waited till last, Mr. Chairman, to get some opposition to this. We in the past have supported indexing for compensation for a couple of reasons.

The last time we had done a study on it we found out that under the current system compensation is running 1 to 2 percent behind what it would have been if it had been indexed all along.

No. 2, the indexing I don't believe is going to stop Congress from reviewing the compensation and disability program. I think our social security system, our military retirement, railroad retirement, and some of the others that are indexed are constantly being reviewed. I still believe—like the Blinded Veterans Association says, I still believe that Congress will review these programs, even though they are indexed.

Chairman SIMPSON. You have been consistent in that and I am interested in your views very much. Well, I think that essentially we have probed this issue of the proposal in S. 2460 which provides the blind veterans with a 20-percent hearing loss would be compensated at the same rate as a blind veteran who is a quadriplegic or a double amputee.

Certainly none here would say that blindness combined with deafness or a single amputation is not severe, but we must probe those differences and not ignore those and see that that is correctly carried out and assure that we don't have an unfair balance there with rating changes. Perhaps that is a concern that should not be so seriously considered.

But I very much appreciate your testimony. Thank you very much. And thank you, Mr. Smurr; it is very nice to have you here.

Mr. SMURR. Thank you, Mr. Chairman.

Chairman SIMPSON. Come back. You will, won't you?

Mr. SMURR. I will.

Chairman SIMPSON. I know. I find they all come back.

[Laughter.]

[The prepared statements of R. Dennis Smurr, associate legislative director, Paralyzed Veterans of America; Ellsworth L. Sharpe, national president, Blinded Veterans Association; and Max J. Beilke, legislative counsel, National Association for Uniformed Services; follow:]

PVA
PARALYZED
VETERANS
OF
AMERICA
CHARTERED BY THE CONGRESS OF THE UNITED STATES

PREPARED STATEMENT OF
R. DENNIS SMURR, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
PROPOSED CHANGES IN VETERANS COMPENSATION AND OTHER PROGRAMS
JULY 13, 1982

Mr. Chairman and Members of the Committee, on behalf of the members of Paralyzed Veterans of America, I appreciate the opportunity to present the views and concerns of PVA regarding the legislative proposals being addressed here today. I am Dennis Smurr, Associate Legislative Director of Paralyzed Veterans of America. PVA feels that some of the bills being examined today will have a direct effect on many PVA members, while others will affect the many veterans whom PVA represents in its capacity as a Congressionally Chartered Veterans Service Organization. PVA has served veterans since World War II, and we have always been concerned with issues that affect veterans programs, such as compensation benefits for veterans who were disabled while serving the nation.

PVA would like to make the following comments regarding the legislative proposal S. 1956, which would amend Title 38, United States Code, to authorize payment by the Veterans Administration for reasonable charges made for chiropractic services provided to certain veterans. As we interpret this bill, Senator Strom Thurmond is proposing a four-year test of this program, complete with required annual reports as to the usage of the program and monies expended. PVA recognizes this effort, because many veterans, even those with varying degrees of paralysis, claim to have had positive reactions from and improvement in their physical condition as a result of professional chiropractic services. Senator Thurmond, as always, deserves veterans gratitude for his continuing concern for their well-being.

4350 East-West Highway, Suite 900, Bethesda, Maryland 20814 (301) 652-2135

Regarding the bill introduced by Senator Alan Cranston, S. 2048, which would amend Title 38, to restore eligibility for burial benefits in the case of certain veterans of war whose bodies are not claimed, PVA wholeheartedly endorses this action. The cost-cutting efforts resulting from the Omnibus Reconciliation Budget Act of 1981 greatly curtailed the availability of burial benefits, and that change in national policy caused a public outcry. We appreciate Senator Cranston's introduction of this corrective legislation and hope for its passage into law, because PVA agrees that the proper burial of destitute veterans honors both them and the nation.

In reference to the ability of the VA to guarantee loans to refinance liens on mobile homes and for the purchase of mobile home lots which are to be owned and occupied by veterans as homes, PVA views this proposal as a cost-effective means of assisting veterans in becoming home owners. We find the language of S. 2381 to be of an equitable nature because it extends to veterans who are mobile home owners benefits just as do those who use their VA home loan assistance. PVA members wish they could avail themselves of some of the more spacious mobile-home units currently available, but because of the extensive modifications that are usually required to make such a purchase wheelchair accessible, the opportunities are few and the cost savings are negated. Nonetheless, PVA supports the intent of S. 2381.

Mr. Chairman, PVA wishes to endorse the language and intent of the legislative proposals introduced by Senator Jennings Randolph, S. 2460 and S. 2461. PVA is comprised almost exclusively of catastrophically disabled veterans, and we can fully empathize with our blinded veteran friends as to their reasoning and rationale for requesting award rate increases, especially with respect to additional or compounding disabilities. We hope that this Committee will act favorably toward passage of these two measures.

Regarding the insurance bills which are being examined today, S. 2382 and S. 2388, PVA supports the provision of the first proposal, S. 2382, which prevents the states from becoming the beneficiaries of Servicemen's Group Life and/or Veteran's Group Life Insurance proceeds. These two insurance programs are federally funded, and it seems somewhat ridiculous that one governmental entity should pay another in this manner.

In reference to S. 2388, which would permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government life insurance policy in cases involving contested claims, PVA has certain reservations. However, we recognize, despite an absence of legal training, that veterans' insurance benefits would be treated in the same manner as are other insurance proceeds, whenever parties contest insurance policies. This is a very complex issue, but PVA feels that government insurance policies should be protected from paying erroneous claimants in the same manner as are other insurance policies.

PVA acknowledges and supports the intent of S. 2709, introduced by Senators Simpson and Cranston to correct the technical error with respect to Dependency and Indemnity Compensation (DIC) entitlement. We appreciate the insertion of language into Section 410(b)(1) to read: "Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of, or entitled to receive compensation at the time of death for a service-connected disability that either (a) was or but for a clear and unmistakable error would have been continuously rated totally disabling..." PVA views this correction as being an extremely just and equitable expansion of the DIC entitlements, especially for those surviving family members, if upon a case review it becomes apparent that a deceased veteran had been eligible but had not availed himself of the benefits due him. With this correction the surviving spouse, children, or parents of the qualified veteran could become eligible for DIC payments as per scheduled rates.

While on the topic of Dependency and Indemnity Compensation benefits, PVA again brings to the attention of this Committee the inequity that continues to exist for many DIC recipients, those survivors of veterans who were rated 100-percent service-connected disabled. Because DIC benefits are paid based not upon the rate of disability but upon the veteran's pay grade, many surviving spouses, spouses who have labored tirelessly in the care of their veteran spouses, are, upon the death of their loved ones, automatically thrown into a much lower rate of compensation.

And, all this usually occurs at a time when the surviving spouse can least afford the drastic financial strain, least likely to find outside employment, and least likely to be able to be eligible for other support programs such as Social Security. Quite predictably, the spouses who face the greatest difficulty are those who were married to veterans who were in the lower pay grades of the military. It was shown in a 1978 VA study, "Evaluation of Benefits under the Dependency and Indemnity Compensation (DIC) Program", that 48.8 percent of all surviving spouses in receipt of DIC received monthly payments based upon military pay grades E-1 through E-4, and the survivors' mean age, as of December 1976, was 60.5 years.

PVA, therefore, encourages this Committee to continue to restructure the DIC program to care for the surviving spouses of veterans who served in these lower pay grades. In these cases, involving the spouse of a 100-percent service-connected disabled veteran, DIC should be awarded on the basis of the veteran's degree of disability. PVA asks that the DIC rate be at least 75 percent of the disabled veteran's monthly compensation rate at the time of his death. It must be remembered that these spouses helped disabled veterans live free of expensive institutions, at a great savings to the government. PVA feels that it is only fair and equitable that an improved DIC program be made available to those spouses who have served the nation by helping care for service-connected disabled veterans.

PVA would like to address another bill, S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982." Mr. Chairman, compensation is for PVA's members an extremely important and necessary entitlement because, for catastrophically disabled veterans, it remains their primary source of income. PVA fully understands that the purpose of compensation, as contained in Chapter 11 of Title 38, United States Code, is to offset the diminished earning capabilities of service-connected disabled veterans. We recognize, too, that in this time of budget cutting fiscal constraint it is becoming more and more difficult for Congress to ensure that America's veterans do not suffer reductions in their relative economic well-being.

We are grateful, Mr. Chairman, that S. 2378 recommends an equitable "across the board" increase of 8.1 percent in this year's disability compensation and Dependency and Indemnity Compensation (DIC) rates. Of course, realizing the budgetary process, compensation rates would be increased by 7.4 percent. PVA will gladly endorse the 7.4 percent increase, if that becomes the resolved rate of inflation. Disabled veterans and DIC recipients would, therefore, be keeping abreast of the erosive economic effects of inflation.

PVA wants to go on record again as being opposed to earlier budget considerations of no compensation increases for certain disability categories. Furthermore, discussion of varying rates of increase for different groups of service-connected disabled veterans continues to pose a damaging precedent. Compensation rate increases, designed to offset the diminished earning capabilities of service-connected disabled veterans, should remain uniform, because the ravages of inflation affect all catagories equally. Granted, the more severely or catastrophically disabled veteran is more dependent upon the compensation entitlements granted yearly by Congress, but this does not diminish the need for uniformity in the compensation rate increases, even in time of fiscal restraint.

With all due respect, a "Dear Colleague" letter from the Chairman of this Committee to the other Members of the United States Senate, dated May 21, 1982, pointed out that increases in service-connected compensation benefits had been increased the most, during the last fiscal year, for veterans rated 70-90 percent disabled. Those receiving the next largest increase were those rated 40-60 percent. Veterans rated 100 percent service-connected disabled received increases of less than half those granted to 70-90 percent disabled.

This letter was a justification for supporting a budget increase which granted a 4 percent increase for 70-100 percent disabled veterans, while denying other service-connected disabled veterans increases in compensation benefits.

The "Dear Colleague" letter points up three additional concerns: first, we fully appreciate the Chairman's efforts to increase compensation benefits for those who are most severely disabled, but we must note that the same letter predicted a rise in inflation of 3.5 percent, an estimate which is now subject to question. However, based upon then-current estimates, the projected rate of inflation appeared to be accurate, and PVA fully respects and appreciates the efforts of the Chairman to help the most seriously disabled veterans maintain their standard of living. Second, the letter points out the dangers inherent in "splitting" veterans service-connected disability compensation into categories or groups: even though PVA continues to believe that the Chairman of this Committee would not want to see service-connected disabled veterans harmed, compensation benefits could be understood by others to serve as a vehicle for political messages—we have seen the Director of the Office of Management and Budget attack veterans benefits (both income and health-care benefits) whenever such an attack was needed to give the appearance of justification to his attacks. Finally, it is evident, based upon the previously-mentioned percentages, that more seriously disabled veterans have not had increases in compensation benefits equal to those received by other categories of service-connected disabled veterans. In fact, others have received as much as 18 percent higher increases in benefits during the past decade, based upon "Table 3" in the letter of May 21, 1982.

PVA feels that it is time Congress declares its intended purpose for granting service-connected disability compensation benefits. As noted in PVA's discussion of S. 2378 (to offset compensation by amounts received from other government programs such as Social Security) which follows, Congress seems to feel, today, that service-connected disability compensation payment are some mere "gratuity" or "privilege" which the veteran has not earned. "Gratuity" and "privilege" are terms used by the United States Supreme Court nearly a century ago, in describing veterans benefits, and there seems to be something of a return to that attitude: fragmenting service-connected disabled veterans into groups only gives credence to those who cannot (or will not) understand the basic purpose of, and importance of, service-connected disability compensation benefits.

Another concern PVA has, that stems from the discussions of varying rates of compensation increases for different groups of service-connected veterans, is that this precedent, if established, could possibly be applied to other veterans' programs. A good example exists in the language of S. '2378 whereby it is attempting to change Section 315 of Title 38, United States Code, to increase the level of disability required for the payment of dependents' allowance. PVA has immense difficulty in seeing the rationale for this particular amendment. The 30 percent disability rating level is a recognized bench mark throughout the government. For example, the 30 percent disabilty rating is what is recognized as "severely disabled" for VA employment considerations and for VA rehabilitation programs. Now, in a cost-saving measure, simply by changing "30 percent" to "50 percent" in the existing law, the entire definition of "severely disabled"is being threatened. And, the change in law would harm dependents of service-connected disabled veterans who have been covered by the 30 percent rating but will not be covered by the newly proposed 50 percent rating. PVA is adamantly opposed to any potential cost-saving measures such as proposed for Section 315 by S. 2378.

Another area of concern regarding the provisions of of S. 2378 relates to the proposal to offset veteran compensation payments by those benefits received through Social Security or other federal programs providing monetary payments for disability or retirement. Some concerned individuals may view this measure as positive steps toward the elimination of that dreaded practice known as "double-dipping." PVA opposes this practice in principle, but we must stress to this Committee that veterans who are in receipt of both compensation and benefits derived from other programs have duly paid into these latter programs. In fact, not only have the veterans paid into programs such as the Social Security system, they did not have any choice in the matter, they were required by law to pay into the system. Now, through S. 2378, the proposal is being made that in cases where a compensation rating of total disability based upon individual unemployability resulting from service-connected injuries, the veteran recipient's total income package must be capped at one of two levels, that of the existing disability compensation level; or, on the basis of his disability unemployability factor offset by any benefits received from Social Security or other federal programs.

Mr. Chairman, PVA fully understands that premiums are required of any individual veteran who receives service-connected compensation benefits. The nation has said to any citizen who wears the uniform of his country, and who is injured while serving his country in this uniform, that his basic financial needs will be provided for, should he be disabled while in service. It is not imaginable that any service-connected disabled veteran was willfully injured in order to qualify for compensation benefits. Rather, veterans served out of loyalty to the nation, and the guarantee of compensation benefits was the minimum guarantee, the promise that should the worst happen and should the veteran return from active duty disabled, then there would be funds available for life's essentials.

Along these same lines, contributory programs often require the individual's participation, and the person has little choice in whether to pay into such governmental programs. The government has designed these programs so that persons will not face destitution in their old age, or as a result of their disabilities. PVA thinks that such programs are wise and beneficial; however, we would like to point out that should the service-connected disabled veteran in receipt of compensation benefits be allowed to invest in some other resource, such as corporate stock, the accusation of "double-dipping" would not arise. Rather, compensation would be seen as payment for injuries incurred in defense of his nation, while stock dividends would be considered the bounty of the individual's wisdom and forsight.

We are very disturbed that benefits received through Social Security or other federal programs have been marked as sources of offsetting compensation benefits. The individual service-connected disabled veteran has paid very dearly into the compensation program, earning those benefits with the sacrifice of himself. And, we are equally disturbed that such veterans would be denied credit for premiums paid into contributory programs (often mandatory contributory ones).

Furthermore, Mr. Chairman, PVA does not understand the desire to, in essence, force service-connected disabled veterans to elect between compensation benefits and those benefits available under other federal programs.

The provisions of Section 2012 of Title 38, United States Code, seeks to have disabled veterans return to the work force, where they will again pay federal, state, and local taxes. All the while they are employed, they owuld be paying into federal programs such as Social Security. Congress has wisely seen fit to attempt to rehabilitate service-connected disabled veterans to the point of full employment: now, Congress, should it pass S. 2378, would be saying to the veteran that despite his own willingness and determination to find employment, he must choose to have compensation benefits diminished by his Social Security benefits.

It makes little sense to promise veterans compensation for service-connected disabilities, to make expenditures for their rehabilitation, and then to penalize them if they return to work and earn wages which are subject to mandatory taxation payments into the Social Security or other program's trust fund. All the while it should be remembered that a rehabilitated veteran faces subtle employment discrimination which is experienced by most handicapped persons; therefore, he is likely to enter into low-paying jobs, not into the more lucrative pursuits, and he would be told that his meager employment efforts were of no value, because he would gain very little for making the extra effort required of a disabled person who seeks to compete in today's work force.

In addition to being counterproductive, this is definitely a violation of principle, and an abridgement of an individual's right to receive benefits from those programs established by law to provide security protections for all Americans who have paid their required premiums as prerequisite to entitlement. The veterans under attack by this particular provision have paid the premiums, both to our country and to each specific security and retirement program; therefore, PVA adamantly opposes any such offsetting measure as proposed by the language of S. 2378. To adjust one federal program by an individual's receipt of benefits from another federal program is to deny the purpose for which each program was established. Compensation benefits were and continue to be paid for a specific purpose, and the same can be said for other programs. The budget process and fiscal restraint must not be utilized as rationale for undermining or diluting that purpose.

Also of concern to PVA is the noticeable tightening of eligibility standards for pension and education programs intended for surviving spouses and their dependent children. PVA views the veteran pension programs as an on-going cost of previous wars and services rendered by veterans in defense of and in protection of our country. We are very concerned about the wide-sweeping ramifications of redefining the term "child," as used in Sections 521, 522, 541, 542 and 543 of the veterans' pension program benefits, especially as it relates to those dependents being able to pursue educational endeavors. Realizing the need for fiscal constraint, but knowing too that a well-trained mind is a greater asset to the American society than a mind wasted for want of education, PVA opposes the "grandfathering" out of the educational entitlements for veteran dependent education.

Much along the same line, PVA desires to acknowledge its concern over the non-service connected (NSC) disability pension program as it relates to employment, employability and its disincentives, all of which leads to unnecessary expenditures by the Veterans Administration. It has long been PVA's view that severely disabled younger veterans are often capable of rehabilitation to the point of becoming employed. They are reluctant to attempt employment, however, because they are uncertain of their employability, and they recognize that the job market is not as receptive to them as it is to other workers. Faced with these uncertainties, many NSC veterans remain in receipt of pension benefits largely so that they will continue to be eligible for VA health and medical services. In the case of spinal cord injured veterans, the initial costs of injury and the life-long care they require generally varies between an estimated $280,000 and $1,000,000, and they cannot reasonably be expected to sacrifice health-care security. Most who do attempt re-employment enter at low-paying jobs which provide no health-care coverage, and few, if any, health-care insurance policies would provide coverage for their pre-existing conditions. However, it remains true that many are employable. Therefore, PVA would like to suggest the possibility of providing for a substantial transition work period (such as that provided for recipients of Social Security Disability Insurance benefits, since passage of Public Law 96-265, the "Social Security Disability Amendments of 1980"). Gainfully employed NSC disabled veterans in receipt of pension could, with appropriate legislation, be given a period during which they would qualify for VA health-care services, and eligibility for these services could be terminated after an established time, or when the individual veteran's income reached a stated level. As the law presently stands, clearly disabled veterans will continue to receive both VA health care and pension benefits, but with appropriate legislative changes some would recognize their full potential and the VA would have fewer beneficiaries.

It would take considerable research, perhaps by the Congressional Budget Office, to determine the appropriate time and/or income limitations at which eligibility for VA medical and health care benefits would cease. But, quite realistically, the availability of VA health and medical services to NSC veterans has already begun to decline, and this may be one way to reduce the burdens placed on the VA without harming veterans who are unable to pursue gainful employment.

In conclusion, PVA appreciates the delicate forces that come into play when a nation, as represented by its Congress, attempts to balance obligations encountered by services rendered in the past with those constraints encountered by current economic endeavors. It is obvious to us all, however, that the costs of military conflicts, and national defense continue for many years after individuals have served the nation in uniform. PVA therefore commends the Members of this Committee, and of Congress, for their efforts to deal with the problems at hand.

Mr. Chairman, that concludes my testimony and I will be happy to answer any questions that I can.

BLINDED VETERANS ASSOCIATION
1735 DESALES STREET, NORTHWEST • WASHINGTON, D.C. 20036 • (202) 347-4010

PREPARED STATEMENT OF ELLSWORTH L. SHARPE, NATIONAL PRESIDENT, BLINDED VETERANS ASSOCIATION

On behalf of the Blinded Veterans Association, I would like to thank the members of this committee for inviting us to testify at this hearing. The Blinded Veterans Association always considers it a privilege to appear before this committee, and we especially appreciate this opportunity to comment on the important legislation under consideration today.

In addition to the compensation bill, which would provide an adequate cost of living adjustment for service-connected disabled veterans, the committee today is also considering two pieces of legislation that pertain specifically to blinded veterans. The BVA has been encouraging the Congress to enact this legislation for some time. We are very pleased that Senator Randolph has introduced this legislation and we are grateful for his efforts and for the efforts of this committee and its staff to include this legislation in today's hearings.

Before we comment on the compensation bill, I would like to take a few minutes to discuss S. 2460 and S. 2461, bills designed to correct two provisions in Title 38, Section 314 which treat blinded veterans inequitably. The two provisions which would be amended by this legislation do not recognize in their present form the unique nature of blindness as a disability.

For example, it is obvious that the senses of hearing and touch become the principal avenues of information and enable blinded veterans to function adequately within their environments. Any additional impairment in these senses makes the blindness a far more disabling condition. Title 38, Section 314 now ignores this reality. S. 2460, which was introduced by Senator Randolph on April 29, would amend the schedule to reflect the severe nature of a combination of disabilities.

Impaired hearing significantly compounds problems encountered by blinded veterans in their daily living and vocational pursuits. Even a minor hearing loss can affect a blinded veteran's directional orientation, thus seriously restricting his mobility in an unfamiliar area. Currently, except for a few statutory provisions dealing with loss of hearing in combination with loss of sight, the Veterans Administration assigns percentages of disability for hearing losses occurring in blinded veterans as if such hearing losses occurred in individuals with normal vision.

A blinded veteran also relies upon his tactile senses for mobility purposes. The loss of tactile sense resulting from the use of an artificial hand or foot is considerably more handicapping when it occurs in combination with blindness, since such loss deprives the veteran of essential contact with the world around him. The existing schedule is deficient in that it fails to adequately recognize the effect of such additional service-connected disabilities on a blinded veteran.

We urge this committee to support S. 2460.

The BVA also has testified on several occasions before this committee on the merits of changes recommended by S. 2461. The rating schedule now classifies totally blinded veterans without light perception under subsection "m" of Section 314. S. 2461 would classify these veterans under subsection "n" and equal to veterans who have suffered the anatomical loss of their eyes or the scarring and deformity of their eyes.

The BVA has testified that a veteran who is totally blind without light perception should be rated equally to a veteran with anatomical loss of the eyes or with eyes having deformity or scarring. Although in both instances the veterans are equally without vision, the latter case currently is rated more disabling than the former. In fact, the inadequacy of the current rating schedule is such that it is possible for a veteran with a deformity or scarring to have some light perception in one or both eyes; yet, he would still be rated more disabled than a veteran with no light perception in either eye, but without deformity or scarring.

BVA Legislative Chairperson Dr. George Stocking best described the situation when he testified on the merits of such legislation before this committee last March. Dr. Stocking testified as follows:

> When I was first blinded, I was rated a paragraph N because I had one eye enucleated and the other eye was scarred or deformed. Yet, I had some ability to perceive changes in light. Three years later when I lost that ability, I finally realized that I had been using that for mobility purposes. So, the individual who at that time was totally blind, having no light perception, was rated below me.

These words best underline the need for S. 2461.

Additionally, in provisions related to the loss of an extremity, the code specifies that compensation payments for a veteran who has suffered the "loss of use of" an extremity should be the same as a veteran who has suffered the "loss of" the extremity. A blinded veteran without light perception has no more vision than the veteran who has lost his eyes or whose eyes are deformed or scarred. And yet, as our testimony has just indicated, in some cases, the veteran with deformed or scarred eyes may actually have some light perception and be rated higher by the VA and receive more compensation.

Blindness combined with the loss of light perception is a more debilitating condition. Light perception influences balance, mobility, and direction, and it can be a crucial factor in the training and rehabilitation of a blinded veteran. We would encourage your support for S. 2461 for all of these reasons.

I would also like to add that the costs of this legislation are minimal. The BVA estimates that the combined cost of enacting S. 2460 and S. 2461 would fall below $500,000.

Both bills would make minor changes to the schedule and impact only on service-connected veterans. These provisions which are unfair to blinded veterans are simple oversights. They were not instituted to treat blinded veterans unfairly, but their effect is the same. We now have an opportunity to correct the schedule and we hope that this committee will concur in this sentiment.

The BVA is also quite pleased to appear here today to testify on the merits of S. 2378, legislation that would grant an 8.1 percent cost of living adjustment in compensation for service-connected disabled veterans and dependency and indeminity compensation for surviving spouses and children of veterans.

We sympathize with the committee's need to carefully scrutinize any expenditure of funds at this time in our nation's history. In hour after hour of congressional debate and deliberation on the budget--a process that seems far from over--we know that economic times are not good. Unemployment continues at record-high levels. The unemployment rate for veterans also continues at record-high levels--a product of reduced overall employment in this nation. What seemed like a break in consumer prices earlier this year already is history. According to a report released in April by the Department of Labor, prices for the three month period ending in March showed only a 1 percent increase due to decreases in the price of gasoline. But, gasoline prices again are headed in the wrong direction and this is likely only to increase the price in all consumer goods over the rest of this calendar year. The continuing high rate of consumer products best substantiates the need for an equitable cost of living adjustment in compensation and DIC for all service-connected disabled veterans. We fully endorse the 8.1 percent cost of living adjustment in S. 2378.

We also realize, however, that the first budget resolution approved by the Congress provided funds for a 7.4 percent cost of living adjustment. Like other Americans, the veterans community is willing to tighten its belts in these times of economic chaos. We can support the 7.4 percent adjustment for all service-connected disabled veterans. This seems both an equitable and adequate adjustment and it reflects recent adjustments in social security and pension payments.

Although we sympathize with the committee's need to enact some cost savings legislation, we cannot support all the measures proposed in S. 2378. The BVA welcomes any administrative changes in the compensation program that would save money without endangering the security and well-being of our nation's service-connected disabled veterans. Like many of the other veterans' organizations which have testified on this issue in other hearings, we are strongly opposed to Section 201 of this legislation.

Under this section, where a rating of total disability based on individual unemployability has been assigned to any veteran in receipt of benefits under Title II of the Social Security Act or any other federal program providing monetary benefits for disability or retirement, VA compensation would not exceed the greater of 1) the amount payable to the veteran under a schedular rating or 2) the amount payable to the veteran on the basis of a rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under Title II of the Social Security Act or such other federal program.

This measure seems designed to eliminate what has come to be known over the recent year as "double-dippers." However, we think that it is important to note, first, that disabled veterans are not getting rich from or bilking the compensation program. The compensation program is designed to reflect the loss of earning capacity resulting from the disability. Second, it is important to remember that the disabled veteran has earned his social security benefits on the basis of contributions made when the veteran was able to work.

Many veterans have earned military social security wage credits as well as credits from civilian employment. Our basic view is that the benefits were earned independently and that neither should affect the other.

The VA estimates that this change will save the government $282.5 million at the expense of 100% unemployable service-connected disabled veterans. The BVA would like to know how much it would cost to implement such a provision. The impact of such legislation will be quite severe and may not be justified by the total amount of savings reduced by start-up and implementation costs.

The BVA also is concerned with Section 304 which redefines the term dependent child. This section would terminate the eligibility of veterans and surviving spouses for additional pension based on children's college attendance during ages 18 to 23 as well as the eligibility of surviving children in their own right, when the children reach 18 after September 30, 1982. This measure is projected to save roughly $13.4 million in the next fiscal year. This change would make Title 38 conform to changes made last year in the Social Security Act. We think that this provisions is ill-conceived. It penalizes not only the veteran, but also his family. Its impact is all the more severe because of other federal cutbacks in educational aid. Scholarships and grants are drying up. The costs of education are skyrocketing and the federal government is making it all the more difficult for many children to receive a college education. The federal government no longer appears as committed to higher education as it was in the 60's and '70's. We think this is unfortunate and could have serious long-range impact on our society. A long-range view would indicate the inadequacy of this proposal.

The BVA also is supportive of S. 2048 which would restore eligibility for burial benefits to veterans whose bodies are not claimed. This legislation introduced by several members of this committee would correct an oversight resulting from last year's budget debate. The prospect of unclaimed bodies of veterans was an embarrassment to this nation and a humiliation of its fighting men. And it underscores the need for close scrutiny of legislation designed to save money.

We have no additional comments at this time on the other legislation under consideration by this committee.

Again, I would like to thank you for the opportunity to appear before this committee, and I would especially like to draw your attention to S. 2460 and S. 2461--two pieces of legislation that would make overdue changes in Title 38, Section 314.

I will be happy to answer your questions.

Prepared Statement of

Max J. Beilke

Legislative Counsel

The National Association for Uniformed Services

Before the

Committee on Veterans' Affairs
U.S. Senate

July 13, 1982

Compensation, Dependency and Indemnity Compensation (DIC), and various other VA programs.

Mr. Chairman, and members of the committee, I welcome the opportunity to present the views of the National Association for Uniformed Services to this distinguished panel.

The National Association for Uniformed Services (NAUS) is unique in that our membership represents all ranks of career and non-career service personnel and their wives and widows. Our membership includes active, retired, and reserve personnel of all seven uniformed services: Army, Navy, Air Force, Marines, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. With such a membership, we are able to draw information from a broad base for our legislative activities.

Today's hearing will focus on several separate legislative proposals. Detailed testimony will not be given on every proposal. On some proposals only very brief comments will be made. The order of proposals discussed was randomly selected and should not be interpreted as an order of importance.

S. 1956 -- The National Association for Uniformed Services (NAUS) concurs in the proposal to extend limited reimbursement of chiropractic services for certain veterans. Eligibility requirements contained in S. 1956 appear adequate to prevent misuse and fraud or waste of funds.

S. 2048 -- NAUS concurs in the proposal to restore eligibility of the burial benefit to certain war veterans whose bodies are not claimed. It is incumbent upon the people of this nation and its elected officials to insure that no needy war veteran be buried in a pauper's grave. To allow this would be unconscionable in a nation that prides itself in being benevolent. For these veterans who serve our nation during a time of need, it's only proper that this nation reciprocate during their time of need.

S. 2378 -- NAUS concurs in an increase in the rates of disability compensation for disabled veterans and Dependency and Indemnity Compensation (DIC) for surviving spouses and children of veterans. We also believe this increase should be applied across the board and not targeted. While a specific dollar amount or percentage of increase will not be recommended, this association does recommend that any increase agreed upon by both Houses of Congress should at a minimum equal the most recent percentage of increase awarded to social security beneficiaries and those veterans in receipt of veterans pensions. To apply a lesser percentage of increase to disabled veterans would be unjustifiable. Budgetary savings should not be applied to disabled veterans' programs, until after they have been applied to all other government funded assistance programs.

As regards the DIC program, there are two aspects which I would like to mention ever so briefly. One is the remarriage of DIC recipients. NAUS continues to support the concept of allowing these recipients to remarry after age 60 without loss of DIC eligibility. The other aspect is the fact that DIC rates are determined strictly on the basis of the deceased veteran's pay grade. NAUS is desirous to work with this committee at a later date on the remarriage issue and on a more equitable criteria for DIC rate determinations.

NAUS does not support the provisions of Title II, Sections 201 and 202, -- Compensation Amendments as outlined in S. 2378. These sections call for a reduction in veterans' benefits payable due to receipt of social security or other Federal program benefits. It is our belief that a veteran's benefit once awarded as the primary benefit should remain as such and not be subject to offsets or reductions simply because the veteran at a later date establishes eligibility under a different benefit program. Such action makes the veteran's benefit a temporary benefit. This nation can ill afford to give the illusion that the receipt of a veteran's benefit once awarded is unstable and subject to cancellation, revocation, reduction, or offset, even though the circumstances which originally qualified the veteran for the benefit remained unchanged. Payment of a veteran's benefit must not hinge on eligibility or receipt of other entitlements awarded or earned at a subsequent time under dissimilar programs.

Neither does NAUS support the proposed changes to dependent student benefits contained in Section 304 of S. 2378. These changes will reduce education benefits for many dependent children who have already suffered eligibility and benefit reductions in other education programs. This Congress and the Veterans Administration must keep faith with not only our young citizens who served and who will serve, but with Abraham Lincoln who said: "to care for him who shall have borne the battle and for his widow and his orphan."

S. 2460 and S. 2461 -- NAUS supports without reservation the provisions of these two proposals. The loss of even one of our five senses; sight, smell, feel, hearing or taste, is tramatic in itself. The loss of two or more compounds this trauma. With the loss of sight, other senses are often sharpened to compensate for that loss therefore the additional loss of hearing or feeling or one or more limb places an additional handicap on a blinded veteran more severe than on a veteran who may have suffered an impairment but who has sight.

NAUS agrees with the Blinded Veterans Association (BVA) that a veteran who is totally blind in both eyes, having no light perception, should be rated equally to a veteran with anatomical loss of the eyes or with eyes having deformity or scarring. Although in both instances the veterans are equally without vision, the latter case currently is rated more disabled than the former.

Additionally, NAUS concurs with the BVA in that the current method of rating blindness in combination with hearing losses needs review. The sense of hearing becomes the principal avenue of information for a blinded veteran. Therefore, impaired hearing significantly compounds problems encountered by blinded veterans in their daily living and vocational pursuits. Even minor hearing losses can affect a blinded veteran's directional orientation, thus seriously restricting his mobility in an unfamiliar area.

Like the BVA, NAUS is concerned about the method used to rate blindness in combination with loss of extremities. The schedule is deficient in that it fails to adequately recognize the effect of such additional service-connected disabilities on a blinded veteran.

The loss of tactile sense resulting from use of an artificial hand or foot is considerably more handicapping when it occurs in combination with blindness, since such loss deprives the veteran of essential contact with the environment.

S. 2381, S. 2382 and S. 2388 -- NAUS supports these proposals.

Draft proposal to amend Title 38, USC, to provide for a more uniform minimum-service requirement for entitlement to certain benefits as a result of active duty service. -- NAUS has in the past and continues to support a longer period of service to establish eligibility for veterans' benefits than was previously set forth in the original Title 38. When one studies the value of many of the VA benefit programs, 24 months cannot be considered an exorbitant period of service to earn eligibility for such benefits of which many of them are lifetime benefits.

Draft proposal correcting a technical error with respect to entitlement to Dependency and Indemnity Compensation (DIC). -- NAUS supports this technical correction.

This concludes my prepared statement and I am ready to respond to questions.

Chairman SIMPSON. The final group: Barry McAlpine, doctor of chiropractic, accompanied by Bruce Nordstrom, doctor of chiropractic and executive vice president of the International Chiropractors Association in Washington, D.C. It is good to have you gentlemen with us. Please proceed.

TESTIMONY OF BARRY McALPINE, DOCTOR OF CHIROPRACTIC, ACCOMPANIED BY BRUCE E. NORDSTROM, DOCTOR OF CHIROPRACTIC AND EXECUTIVE VICE PRESIDENT, INTERNATIONAL CHIROPRACTORS ASSOCIATION

Dr. McALPINE. Mr. Chairman and members of the committee, my name is Barry McAlpine. I am a chiropractor. I am a Vietnam veteran. I am a member of the veterans' affairs committee of the International Chiropractors Association.

I have with me today Dr. Bruce Nordstrom, executive vice president of the ICA.

On behalf of the ICA, I appreciate very much the opportunity to speak to you today in favor of S. 1956. As you are aware, the concepts embodied in S. 1956 are not new. Identical legislation was passed by the Senate, S. 196, in the last Congress but was not endorsed by the majority in the House.

Along with thousands of veterans like myself, the International Chiropractors Association is deeply grateful for the support this committee and the entire Senate has previously shown for legislation that will make chiropractic services routinely available to veterans through the Veterans' Administration.

Since this committee last held hearings on this issue, April 10, 1979, few if any changes have been made with respect to providing veterans access to chiropractic care through the VA program. Despite the encouragement provided, the Veterans' Administration, in the conference report of House bill 3892, access to chiropractic care is still being denied veterans on a systematic basis.

In that report, the Congress urged the VA's Department of Medicine and Surgery to reexamine its position and to begin using its existing authorities to provide, at least on a pilot basis, chiropractic services as a part of the medical care furnished to veterans.

Clearly, this expression of concern on the part of the Congress and the urging of voluntary movement was not enough to change the VA's long-standing, discriminatory attitude.

No better evidence can be found to illustrate the need for this bill than the intransigence the VA has shown in the face of this congressional advice. Without a specific congressional mandate requiring the VA to provide access to chiropractic care such as that provided for in this bill, America's veterans will continue to be denied the benefits of chiropractic care through the VA.

Our interest in S. 1956 is a reflection of a number of concerns. We are, of course, concerned about the discriminatory attitude toward the chiropractic profession embodied in current VA policy which is unique among Federal programs in its exclusion of chiropractic care. However, many other issues of equal or greater concern surround this problem. Currently chiropractic care is authorized under the law only if recommended by a medical doctor or an osteopath. We know of no such incidence of referral.

In fact, we have been made aware of incidents where veterans have requested referral and have been denied. Indeed, there are instances where veterans have been misled by VA form letters stating that chiropractic services were not available under any circumstances.

More importantly, VA policy continues to operate on the basis that, "When medical findings and judgments determine that active manipulation and adjustment are indicated, such treatment is more frequently administered by rehabilitation medical specialists or psychiatrists."

This concerns us greatly. Detection and removal of spinal subluxations require years of formal education in the theory of biomechanics, classroom instruction and clinical experience, not just a few additional hours in an elective class or a weekend seminar. Thus a significant issue of quality of service is raised.

We are concerned about the cost of traditional treatment of back injuries and conditions and believe very strongly, on the basis of good evidence, that the chiropractic profession can provide better treatment in many cases at a significantly lower cost. For the committee's consideration we have attached a summary of independent studies of industrial back injuries and the full text of two of the more recent studies. Copies of all the studies are available upon the committee's request.

These studies, two of which were conducted by medical doctors, show that for similar cases chiropractic care demonstrated a dramatic savings in time and money and encouraged insurance claimants to work twice as fast as medical and other specialist forms of care.

We feel the information contained in these studies clearly indicates that inclusion of chiropractic services for veterans, as provided in S. 1956, would not just be a displacement of costs but would actually save Federal dollars for the less expensive and more efficient care by doctors of chiropractic.

Finally, we believe that veterans deserve the same freedom of choice of health-care providers as is enjoyed by citizens who receive health-care benefits under medicare, medicaid, the Federal Employee Workmen's Compensation, all 50 States' workmen's compensation programs, most Federal employee health benefit plans, and commercial health and accident policies.

Passage of S. 1956 would provide a meaningful addition to the health-care program for veterans who are currently in a uniquely isolated position as far as the availability of chiropractic care. We would like to draw to the committee's attention the support this bill has drawn from a number of veterans organizations including the Military Order of the Purple Heart, the Disabled Officers Association and, as you heard just a few moments ago, the VFW, the Association of Paralyzed Veterans of America, and the Disabled Veterans of America, all of which have either adopted resolutions or have otherwise voiced strong support for inclusion of chiropractic services in Veterans' Administration health programs.

In closing, we would like to thank those members of this committee who have cosponsored S. 1956, a bill that would correct an unfortunate and costly form of discrimination.

Thank you.

Chairman SIMPSON. Thank you very much, Dr. McAlpine.

Let me ask: What is the average cost of an initial visit to a chiropractor if there is such an average cost?

Dr. MCALPINE. The average cost varies and depends upon if you are going to a chiropractor in New York City or Waterloo, Iowa. In the State of Michigan where I am at, an average cost of a first visit would be $35 to $45 not including X-rays if they were necessary.

Dr. NORDSTROM. Mr. Chairman, if I might add——

Chairman SIMPSON. Yes, please.

Dr. NORDSTROM. A study was conducted in 1979 on that issue and we will submit the information for the record.

Chairman SIMPSON. If you would that would be helpful.

How many visits—obviously I am aware that this is difficult to obtain or discern because of the nature of that particular treatment.

But how many visits might be typical of an average course of treatment, if there is such a thing?

Dr. MCALPINE. Well, it is pure speculation.

Chairman SIMPSON. Sure.

Dr. MCALPINE. It depends upon what is wrong with the patient, what he does for a living, his height and weight, et cetera, et cetera, and how long he has had the condition. If a chiropractor can take care of a patient in 10 to 12 office visits he would be considered very successful with his treatment.

Chairman SIMPSON. What types of problems might be typically referred to a chiropractor if the VA physicians did exercise the referral authority they already have?

Dr. MCALPINE. Well, I would think that all musculoskeletal spinal conditions, a chiropractor would be able to help that out very greatly. You know, our mode of treatment is working with the body in its natural form and state. Most conditions are not caused by a chemical imbalance. We are talking about the veterans with mainly musculoskeletal problems.

People with headaches, and individuals who are for instance paralyzed—I saw a veteran today that was paralyzed—respond very well to the chiropractic care. That doesn't mean he can get up and walk but it means that we can make him feel a lot better.

Chairman **Simpson**. I just wonder what would be the referral ailments that would be coming to you from the VA in the existing authority they already have.

Dr. **Nordstrom**. If I might comment, Mr. Chairman, I think primarily for lay purposes we are talking about strains and sprains of the back. Dr. McAlpine, much better than I, could relate to the fact that injuries to the back don't just take place during nonwartimes, foxhole injuries, et cetera. I think that is a good pilot place to start this—strains and sprains of the back. There are numerous studies that show that chiropractic care is cost effective, not just in a dollar sense but in the sense of getting people back on their feet more quickly. So it is one of those things where we have to look at the patient. Obviously medical care is required in certain instances.

But we believe and I think the record demonstrates very clearly that chiropractic has a clear role to help veterans out. We just want to provide them with that assistance.

Chairman **Simpson**. Thank you very much. I appreciate having your testimony. That will be helpful for the committee.

That will conclude the morning's hearings. There will be, as I say, questions perhaps from other members of the committee and the record will be left open for that and for the responses from those to whom the questions are directed.

Thank you very much for your assistance to this committee. You have all been very helpful. Thank you.

That concludes the hearing.

[Whereupon, at 11:05 a.m., the hearing was adjourned.]

[The prepared statement of the International Chiropractors Association and a written statement of the American Chiropractic Association, follow:]

ICA

INTERNATIONAL CHIROPRACTORS ASSOCIATION
EXECUTIVE OFFICES

Prepared Statement of the
INTERNATIONAL CHIROPRACTORS ASSOCIATION
submitted to the
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
CHIROPRACTIC SERVICES FOR VETERANS
July 13, 1982
(In support of S. 1956,
introduced December 15, 1982)

The International Chiropractors Association (ICA) of Washington, D.C., submits this statement in response to the invitation from Honorable Alan K. Simpson, Chairman of the Veterans' Affairs Committee.

S. 1956 - The Answer to a Continuing Problem

The concepts embodied in S. 1956 are not new. Identical legislation was passed by the Senate (S. 196) in the last congress, but was not endorsed by a majority in the House.

The International Chiropractors Association is deeply grateful for the support this committee and the entire Senate has previously shown for legislation that would make chiropractic services routinely available to veterans

1901 L STREET, N.W., SUITE 800, WASHINGTON, D.C. 20036 TELEPHONE (202) 659-6476

through the Veterans Administration. Since this Committee last held hearings on this issue (April 10, 1979), however, few, if any changes have been made with respect to providing veterans access to chiropractic care through VA programs.

Despite the encouragement provided the Veterans' Administration in the conference report of H.R. 3892, access to chiropractic care is still being denied veterans on a systematic basis. In that report, the Congress urged the VA's Department of Medicine and Surgery to re-examine its position and to begin using its existing authorities to provide, at least on a pilot basis, chiropractic services as a part of medical care furnished to veterans.

Clearly, this expression of concern on the part of the Congress and the urging of voluntary movement was not enough to change the VA's long-standing discriminatory attitude. No better evidence can be found to illustrate the need for this bill than the intransigence the VA has shown in the face of this Congressional advice. Without a specific Congressional mandate requiring the VA to provide access to chiropractic care, such as that provided for in this bill, America's veterans will continue to be denied the benefits of chiropractic care through the VA.

Chiropractic, a Non-duplicating Health Service

Since its inception in 1895, chiropractic has been licensed in all 50 states, the District of Columbia and

Puerto Rico. In just the past 7 years, the number of chiropractic colleges has grown from 10 to 16 in the United States alone, and an accrediting agency for chiropractic colleges, the Council on Chiropractic Education, has been officially recognized by the U.S. Office of Education.

To obtain a diploma as a Doctor of Chiropractic (DC), a candidate must have two years of pre-professional college education and four years of resident instruction at a chiropractic college. (Exhibit A.)

It is estimated that the 24,000 Doctors of Chiropractic practicing in the U.S. will see 1.4 million different patients each week this year. After screening their patients for possible contraindications or need for referral to or consultation of another health care provider, chiropractors will give an adjustment(s) (manipulation of the spine) to correct subluxated (misaligned) vertebrae which can cause disturbances to the nervous system if not corrected. This specialized health care service is not duplicated by any other healing arts profession.

Under the Internal Revenue Code, chiropractic health care is a "medical" deduction.

The Federal government, under the Immigration laws, recognizes chiropractic education as a basis for admitting aliens into the United States with special status as students.

In 1974, the Rehabilitation Act of 1973 was interpreted by HEW to authorize chiropractic services by State rehabilitation programs which utilize Federal matching funds.

The U.S. Public Health Service classifies Doctors of Chiropractic among "medical specialists and practitioners," and includes Doctors of Chiropractic in its Health Manpower Source Book.

VA Policy - A Cause for Concern

Our interest in S. 1956 is a reflection of a number of concerns. We are, of course, concerned about the discriminatory attitude toward the chiropractic profession embodied in current VA policy which is unique among federal programs in its exclusion of chiropractic care. However, many other issues of equal or greater concern surround this problem.

Currently, chiropractic care is authorized under the law only if recommended by a medical doctor or an osteopath. We know of no such incidence of referral. In fact, we have been made aware of incidents where veterans have requested referral, and have been denied. Indeed there are instances where veterans have been misled by VA form letters stating that chiropractic services were not available under any circumstances. (Exhibit B.)

More importantly, VA policy continues to operate on the basis that where "...medical findings and judgments determine that active manipulation and adjustment are indicated, such treatment is most frequently administered by rehabilitation medicine specialists or physiatrists." This concerns us greatly. Detection and removal of subluxations requires years of formal education in theory of biomechanics, classroom instruction and clinical experience —— not just a few additional hours in an elective class or a weekend seminar. Thus, a significant issue of quality of service is raised.

We are concerned about the cost of traditional treatment of back injuries and conditions and believe very strongly, on the basis of good evidence that the chiropractic profession can provide better treatment in many cases at a significantly lower cost. For the Committee's consideration, we have attached a summary of independent studies of industrial back injuries and the full text of two of the more recent studies. (Exhibit C.) Copies of all the studies are available upon the Committee's request.

These studies, two of which were conducted by medical doctors, show that for similar cases, chiropractic care demonstrated a dramatic savings in time and money, and returned insurance claimants to work twice as fast as medical and other specialist forms of care.

We feel the information contained in these studies clearly indicates that inclusion of chiropractic services for veterans, as provided in S. 1956, would not just be a displacement of costs, but would actually save federal money through less expensive and more effective care by Doctors of Chiropractic.

Freedom of Choice

Finally, we believe veterans deserve the same freedom of choice of health care providers as enjoyed by citizens who receive health care benefits under Medicare, Medicaid, Federal Employee Workmen's Compensation, all 50 state workmen's compensation programs, and most federal employee health benefit plans, and commercial health and accident policies. Passage of S. 1956 would provide a meaningful addition to the health care program for veterans, who are currently in a uniquely isolated position as far as the availability of chiropractic care.

We would like to draw the Committee's attention to the support this bill has drawn from a number of veterans organizations, including the Military Order of the Purple Heart, Disabled Officers Association, the American Legion and the Disabled American Veterans, all of which have either adopted resolutions or have otherwise voiced strong support for inclusion of chiropractic services in Veterans Administration health programs.

In closing, we would like to thank those members of this Committee who have cosponsored S. 1956, a bill that would correct an unfortunate and costly form of discrimination.

Exhibit A.

ICA™
INTERNATIONAL CHIROPRACTORS ASSOCIATION
EXECUTIVE OFFICES

EDUCATION OF A CHIROPRACTOR

All fifty states, plus the District of Columbia and Puerto Rico officially recognize chiropractic as a health profession. To obtain the Doctor of Chiropractic degree (D.C.), a candidate must have completed at least two years of preprofessional college education and four years of residential instruction at a chiropractic college. Standards for actual professional licensure of chiropractors vary from state to state.

The U.S. Department of Education officially recognizes the Council on Chiropractic Education (CCE) as the official accrediting agency for chiropractic colleges. There are currently 16 chiropractic colleges nationwide with a total enrollment of over 10,000 students. Attached are the CCE guidelines for the chiropractic education and the curriculum offered at Palmer Chiropractic College which is representative of the standard education taught at accredited and recognized chiropractic colleges.

1901 L STREET, N.W., SUITE 800, WASHINGTON, D.C. 20036 TELEPHONE (202) 659-6476

STANDARD BASIC CURRICULUM
FOR
CHIROPRACTIC COLLEGES

The Federation of Chiropractic Licensing Boards adopted a resolution by unanimous vote at their annual meeting in Palm Springs, California, February 12, 1977, that stated that the purpose of a basic curriculum in the education of the chiropractic practitioner is to provide a thorough understanding of the structure and function of the human organism in health and disease.

The curriculum should provide a means for identifying deviations from normal structure and function, while providing the essential facts required for diagnosis, prognosis, and treatment of disease.

The curriculum shall encompass and shall be presented over a period of time as prescribed by the Council on Chiropractic Education or its equivalent as the official accrediting agency for the chiropractic profession approved by the United State Office of Education.

Current Educational Standards of the Council on Chiropractic Education require all candidates to furnish proof of having acquired at least two years (or 60 acceptable semester hours) leading to Baccalaureate Degree in the Arts and Sciences, including laboratory courses in biology and chemistry.

The curriculum shall be presented over a minimum period of eight semesters, or the equivalent, for a total of not less than 4,200 hours.

The Offerings should include the following disciplines:

> Human Anatomy, biochemistry, physiology,microbiology, pathology, public health, physical, clinical and laboratory diagnosis, gynecology, obstetrics, pediatrics, geriatrics, dermatology, otolaryngology, roentgenology, psychology, dietetics, orthopedics, physical therapy, emergency procedures, spinal analysis, principles and practice of chiropractic, adjustive technique, and other appropriate subjects.

The above standards are reviewed each year and are subject to revision as needs and circumstances change. For specific and more detailed information you are referred to the:

COUNCIL ON CHIROPRACTIC EDUCATION
3209 Ingersoll Avenue
Des Moines, Iowa 50312

Chiropractic Education

27

THE PROFESSIONAL CHIROPRACTIC EDUCATION
Classmates today – colleagues tomorrow. This is the reality and goal of the students of chiropractic at Palmer College.

As the student moves through studies leading to his chosen profession, he realizes that the education he is undergoing is much more broad than is evident in the comprehensive curriculum. The transition from his previous environment to that of the practicing chiropractor can come only through the formation and crystalization of certain personality characteristics, personal dedication to principles and technical skills.

These learned and developed traits and skills must be nurtured simultaneously, so each will augment the others as the student moves closer to graduation and entrance into the professional sphere.

Advanced physiology and other basic science subjects are woven into the curriculum to conform with the student's progress in technical skills and philosophical understanding of chiropractic.

This correlation of advancement in degrees of exposure to subject matter is further strengthened by the application of the combined knowledge and skills in the Palmer Clinics. There, the student doctor grows in wisdom and understanding of his professional obligations to the patient.

Sincere interest in the patient through patient management in addition to technical proficiency, lay explanation of scientific reasons for human malfunction, why a patient will respond almost immediately in some instances to chiropractic care and other cases may require much more time for recovery or improvement, these are some of the developed traits and abilities that become the mark of the professional person – the doctor of chiropractic.

The professional education in chiropractic differs sharply from an education in liberal arts or technology. The classmate sitting beside a student will not become an electronics engineer or high school teacher or drama coach, he too, will become a doctor of chiropractic. Thus, the common bond between future colleagues fosters a sharing of educational, socio-economic and cultural experiences that deepens their understanding of human relations.

Application of certain liberal arts skills, particularly in the area of communications, is fundamental in the professional education. The student not only receives information through visual and auditory channels, but communicates his understanding of curricular material in a variety of ways. Objective testing demands specific answers to specific questions, thus developing in the student the ability to communicate effectively. Essay examinations aid the student in exercising his ability to arrange thoughts and information in logical sequence and to express himself clearly in writing. Both types of examinations provide additional exercise and testing of the student's accurate use of the language of science.

The professional curriculum, then, together with experiences in human relations and development of individual skills in clinic and selected extracurricular activities, is designed to equip the graduate for the practice of chiropractic and for the responsibilities of a citizen in his community.

CHIROPRACTIC PHILOSOPHY

Chiropractic philosophy is an explanation of the fundamentals upon which the practice of chiropractic is based. In order to grasp these fundamental values, it is necessary to understand the anatomical structure of the body, and to know the primary functions of all body organs.

Each organ within the body has some function in the maintenance of life and health of the entire organism, and it must be coordinated with the needs and demands of the moment. Body organs are arranged in systems, so that they may carry out their mission. Thus, the body is an organization of these systems.

The state or organization found among the body organs and systems is maintained through the nervous system, and indicates the presence of an intellectual guiding entity — an inborn or innate intelligence.

How our organs function

The innate intelligence of the human body uses the brain and nervous system as a means of communication. An organ cannot function normally unless it receives a normal transmission of nerve impulses from the brain.

The vertebrae (or segments) of the spine give support for the trunk and protection to the spinal cord and nerves as they pass from the brain. They are held in location by ligaments and moved about by paired spinal muscles. Normal spinal movements, such as bending and twisting, are regulated by the nerve supply into the spinal muscles.

If a vertebra loses its normal range of movement, and is misaligned far enough to cause distortion of the spine, it may result in a disturbance with the normal transmission of the vital nerve supply from the brain, not only into the muscles the nerve may contact, but also into some other organ or system of organs in the body. This condition is referred to as *vertebral subluxation*.

THE PROFESSION OF CHIROPRACTIC

A subluxated vertebra, disturbing the normal nerve supply of an organ, brings about functional disease which may be followed by pathological disease.

The chiropractor, having established that a disease has been caused by a subluxated vertebra, directs his efforts to determining which vertebra is subluxated, and to the adjustment of this vertebra back to its normal range of movement. Following the adjustment, the normal nerve supply is restored to the organ or system of organs, and their normal function may be re-established.

Chiropractors, through careful analysis of the entire spine, may not only locate the subluxated vertebra, but through knowledge of nerve fiber distribution, may locate the region of the affected organ. They may then advise the patient about the nature of his symptoms, and suggest methods of care for the body while it is being restored to a normal state of health.

TRAINING IN CHIROPRACTIC

Chiropractic philosophy is based upon anatomical and physiological fact. Because of it, hundreds of thousands of people all over the world today enjoy better health after receiving care by their local doctors of chiropractic.

At the Palmer College of Chiropractic, the methods considered appropriate by our staff for locating and adjusting subluxated vertebrae are taught. Begun by Dr. Daniel David Palmer, Founder of chiropractic, the Chiropractic Philosophy at Palmer College was formalized by Dr. B. J. Palmer, Developer of chiropractic, and stresses the teachings of this man who was, until his death, the foremost authority in chiropractic.

Under his guidance, many successful chiropractors in the world today began their studies. Because of their philosophical background and their professional training, Palmer College graduates are sought in communities all over the world.

INTRODUCTORY COUNSELING
The Palmer College counseling program is designed to provide the student with systematic exposure to experiences leading to his personal adaptation to a professional education and the career for which he is preparing himself.

Before enrolling, counseling may start with the student consulting the Director of Admissions or one of his assistants. This professional aid is available to senior high school students, college students and others who wish to consider the chiropractic career opportunity before making final college plans.

ORIENTATION
New students arrive on campus several days before registration. They participate in orientation sessions planned by the Director of Admissions and the Student Council in cooperation with the faculty and administration.

Each new student may receive a chiropractic examination in the college clinic and is conducted on an extensive tour of the college campus and facilities.

Palmer College Four Year Curriculum

Leading to Doctor of Chiropractic Degree

FRESHMAN I	Hours	Credits
Anatomy – Myology A-110	48	4
Anatomy – Osteology A-111	72	6
Anatomy – Histology A-112	36	3
Anatomy – Embryology A-113	60	5
Chemistry – Organic C-111	60	5
Physiology – Control Systems Phys-5-111	48	4
Philosophy I 111	36	3
		30

FRESHMAN II		
Anatomy – Introduction to Chiropractic Science A-124	60	5
Anatomy – Splanchnology A-128	60	5
Anatomy – Genesiology/Angiology A-129	60	5
Chemistry – Biochemistry I C-122	60	5
Physiology – Cell Physiology Phys-122	60	5
Pathology – Microbiology P-121	60	5
		30

FRESHMAN III		
Anatomy – Central Neurology A-136	60	5
Chemistry – Biochemistry II C-133	60	5
Physiology – Digestion/Nutrition Phys-135	60	5
Pathology – General Pathology I P-133	60	5
Pathology – Hematology P-132	60	5
Technique Roentgenology I – T-131, R-131	60	4
		29
		89

	Hours	Credits
SOPHOMORE I	60	5
Anatomy – Peripheral Neurology A-217	120	5
Chemistry – Chemistry Lab C-214	60	5
Physiology – Endocrinology Phys-214	60	5
Pathology – Subluxation Pathology P-214	60	3
Technique Roentgenology –		23
T-R II, T-212, R-212		
SOPHOMORE II	60	2.5
Anatomy – Dissection A-225		
Physiology – Neurophysiology	60	5
Phys-223	60	5
Physiology – Cardiovascular Phys 226	60	5
Pathology – General Pathology II P-225		
Technique Roentgenology –	120	5.25
T-R III, T-223, R-223		22.75
SOPHOMORE III	36	3
Anatomy – Special Senses A-2311		
Chemistry – Physiological Chemistry and	60	5
Toxicology C-235		
Physiology – Renal and Pulmonary	60	5
Phys 237		
Pathology – Public Health and	120	10
Sanitation P-236	24	2
Philosophy 232		
Technique Roentgenology –	60	2.75
T-R IV, T-234, R-234		27.75
		73.50

	Hours	Credits
JUNIOR I		
Physiology – Correlative Physiology	60	5
Lab Phys-318	60	5
Pathology – Cardiovascular Pathology P-317	60	5
Pathology – Gastrointestinal Pathology P-318	60	5
Pathology – Urogenital Pathology P-319	60	5
Roentgenology – Physics R-316		
Technique Roentgenology –	60	3.25
T-R V, T-315, R-315		28.25
JUNIOR II		
Diagnosis – Physical Diagnosis	144	9
Method D-321	60	2.5
Roentgenology – Positioning R-238	36	1.5
Clinic I, C-321	120	5
Technique Roentgenology		18
T-RVI, T-326, R-326		
JUNIOR III	180	15
Diagnosis – Roentgenology – D-R I	60	5
D-332, R-339	60	2.5
Philosophy 333	60	2.5
Clinic II, C-332		25
Technique – Review T-337		71.25

SENIOR I	Hours	Credits
Anatomy – Clinical Anatomy A-4110	60	5
Diagnosis – Roentgenology – D-R II D-413, R-4110	120	10
Diagnosis – Obstetrics and Gynecology D-414	60	5
Diagnosis – Pediatrics and Febrile Disorders D-415	60	5
Clinic III C-413	60	2.5
		27.5

SENIOR II		
Diagnosis – Roentgenology – D-R III D-426, R-4211	60	5
Diagnosis – Eye, Ear, Nose, and Throat, Dermatology, and Endocrinology D-427	60	5
Roentgenology – Roentgenology Pathology Review R-4212	60	5
Clinic – Ethics and Jurisprudence C-425	60	5
Clinic IV C-424	120	5
		25

SENIOR III		
Diagnosis – Geriatrics D-439	60	5
Diagnosis – Dynamics of Behavior D-438	60	5
Philosophy 434	60	5
Clinic – Correlative Diagnosis C-437	60	2.5
Clinic V, C-436	120	5
		22.5
		75
		308.75

ANATOMY	Hours	Credits
Myology A-110	48	4
Osteology A-111	72	6
Histology A-112	36	3
Embryology A-113	60	5
Introduction to Chiropractic science A-124	60	5
Splanchnology A-128	60	5
Genesiology/Angiology A-129	60	5
Central Neurology A-136	60	5
Peripheral Neurology A-217	60	5
Dissection A-225	60	2.5
Special Senses A-2311	36	3
Clinical Anatomy A-4110	60	5
	672	53.5

PHYSIOLOGY AND CHEMISTRY

Physiology		
Control Systems PHYS-111	48	4
Cell Physiology PHYS-122	60	5
Digestion/Nutrition PHYS-135	60	5
Endocrinology PHYS-214	60	5
Neurophysiology PHYS-223	60	5
Cardiovascular PHYS-226	60	5
Renal and Pulmonary PHYS-237	60	5
Correlative Physiology Lab PHYS-318	60	5
	468	39

Chemistry		
Organic Chemistry C-111	60	5
Biochemistry I C-122	60	5
Biochemistry II C-133	60	5
Chemistry Lab C-214	120	5
Physiological Chemistry and Toxicology C-235	60	5
	360	25

PATHOLOGY	Hours	Credits
Microbiology P-121	60	5
Hematology P-132	60	5
General Pathology I P-133	60	5
Subluxation Pathology P-214	60	5
General Pathology II P-225	60	5
Public Health and Sanitation P-236	120	10
Cardiovascular Pathology P-317	60	5
Gastrointestinal Pathology P-318	60	5
Urogenital Pathology P-319	60	5
	600	50

CHIROPRACTIC PHILOSOPHY		
Philosophy 111	36	3
Philosophy 232	24	2
Philosophy 333	60	5
Philosophy 434	60	5
	180	15

TECHNIQUE		
Technique-Roentgenology I, T-131	24	1
Technique-Roentgenology II, T-212	36	1.5
Technique-Roentgenology III, T-223	108	4.5
Technique-Roentgenology IV, T-234	48	2
Technique-Roentgenology V, T-315	24	1
Technique-Roentgenology VI, T-326	100	4.4
Technique Review T-337	60	2.5
	400	16.9

ROENTGENOLOGY	Hours	Credits
Technique-Roentgenology I, R-131	36	3
Technique-Roentgenology II, R-212	24	1.5
Technique-Roentgenology III, R-223	12	.75
Technique-Roentgenology IV, R-234	12	.75
Technique-Roentgenology V, R-315	36	2.25
Technique-Roentgenology VI, R-327	20	.6
Physics R-316	60	5
Positioning R-328	60	2.5
Diagnosis-Roentgenology I, R-338	84	7
Diagnosis-Roentgenology II, R-419	36	3
Diagnosis-Roentgenology III, R-4210	12	1
Review R-4211	60	5
	452	32.35

DIAGNOSIS		
Physical Diagnosis Method D-321	144	9
Diagnosis-Roentgenology I, D-332	96	8
Diagnosis-Roentgenology II, D-413	84	7
Obstetrics and Gynecology D-414	60	5
Pediatrics and Febrile Disorders D-415	60	5
Diagnosis-Roentgenology III, D-426	48	4
Diagnosis 427	60	5
Dynamics of Behavior D-438	60	5
Geriatrics D-439	60	5
	672	53

CLINIC	Hours	Credits
Clinic I. C-321	36	1.5
Clinic II. C-332	60	2.5
Clinic III. C-413	60	2.5
Clinic IV. C-424	120	5
Ethics and Jurisprudence C-425	60	5
Clinic V. C-436	120	5
Correlative Diagnosis C-437	60	2.5
	516	24

ELECTIVE PROGRAM
Several elective courses are offered for those students wishing to explore specialized areas of practice procedures. Courses in special areas of chiropractic technique range from 60 to 120 classroom hours. Certification may be earned by passing a comprehensive examination in the area, and is required for utilization of the procedure in the outpatient clinic.

Tuition for offerings of the elective program are additional fees over and above regular tuition. Costs are comparable to individual courses in the core curriculum.

The right is reserved by the college to make changes in its program without notice when circumstances warrant such changes.

NOTE: Because of variation in licensure requirements in the 50 states of the United States and international jurisdictions, there may be instances of an occasional subject not taught by Palmer College of Chiropractic. This may, in turn, preclude licensure in a jurisdiction sought by a candidate. For individual state requirements, candidates are invited to address communications to the Department of Admissions or Department of Academic Affairs at Palmer College. Or, write the Federation of Chiropractic Licensing Boards, 331 East Carson Boulevard, Long Beach, California 90807 for the Official Directory of Chiropractic and Basic Science Examining Boards with Licensure and Practice Statistics.

Course Descriptions

FRESHMAN YEAR

Anatomy – Myology – 4 hours per week A-110
The course undertakes a study of the muscular system of the body, excluding those muscles associated with the spinal column. General structure and action of muscles are studied, as well as an in-depth look at the individual muscles of the body.

Anatomy – Osteology and Syndesmology – 6 hours per week A-111
A study of the skeletal system, including the spinal column, is undertaken. The osseous components of the body are studied in detail, including their structure and descriptive features. Ligaments and joints are classified and studied with emphasis upon the structural and integrative functions of the skeletal system and their relationship to the nervous system.

Anatomy – Histology – 3 hours per week A-112
An introduction to the microanatomy of the human body. The study involves the structure of the cell, and cellular organization to form four basic tissues: epithelial, connective, muscular, and nervous tissue. The study is supplemented with a laboratory.

Anatomy – Embryology – 5 hours per week A-113
A basic course dealing with genetics, fertilization, and developmental processes in human embryology. Consideration is given to the general pattern of reproduction of specific organ systems. Errors in development common in clinical practice are dealt with in detail. Course includes regularly scheduled laboratories.

Chemistry – Organic – 5 hours per week C-111
A preprofessional introductory course in organic chemistry covering both the aliphatic and aromatic compounds. Particular emphasis is placed upon classes of compounds essential to the study of biochemistry.

Physiology – Control Systems – 4 hours per week Phys-111
This course is a general introduction to the study of human physiology from the viewpoint of biological controls. Special attention is focused

on the internal environment, homeostasis, and their control by the nervous and hormonal systems.

Philosophy III – 3 hours per week
A rational philosophy, based upon application of the scientific method, is the common foundation of any clinical science. This course represents a comprehensive introduction to the principles upon which the practice of chiropractic is based. The student is taught to develop a perspective on the dynamics of health and disease which will enable him to draw logical conclusions and make rational judgments in clinical practice.

Anatomy – Introduction to Chiropractic Sciences –
5 hours per week A-124
The course is developed around the anatomy of the spine, with specific reference to the application of anatomical knowledge to the practice of chiropractic. The students are encouraged to become involved in the study of spinal anatomy, specifically by the extensive use of 3-dimensional slides. The course includes regularly scheduled labs in osseus identification.

Anatomy – Splanchnology – 5 hours per week A-128
The course entails a detailed study of the anatomy of the digestive and respiratory systems of the human body. Course includes regularly scheduled labs on macro and micro structures.
(Prerequisites: A-112, A-113)

Anatomy – Genesiology and Angiology
5 hours per week A-129
An in-depth course in the anatomy of the cardiovascular, reproductive, urinary, and lymphatic systems. Lectures are supplemented with visual aids and cadaver specimens. Emphasis is placed upon the interrelationships of the various systems of the body. Scheduled laboratories focus upon macro and micro anatomy. (Prereq. A-112, A-113)

Chemistry – Biochemistry I – 5 hours per week C-122
A lecture course devoted to the chemistry of carbohydrates, lipids, proteins, blood, and other fluids of the body. Emphasis is placed on the fundamentals of chemistry, and their application to the living organism.

Physiology – Cell Physiology – 5 hours per week Phys 122
An in-depth study of cellular function. The student also is introduced to concepts of cellular biochemistry. Special types of body cells are also considered.

Pathology – Microbiology – 5 hours per week P-121
The basic principles of microbiology are introduced along with the concepts of pathophysiology and disease including organisms. The relationship between virulency of the organism and resistance of the host is stressed as a paramount factor in the disease process.

Anatomy – Neurology – Central Nervous System –
5 hours per week A-136
Course deals with a detailed study of brain and spinal cord. Emphasis is placed upon the physiological organization of brain and spinal cord and their involvement in the practice of Chiropractic science.
(Prerequisites: A-112, A-113)

Chemistry – Biochemistry II – 5 hours per week C-133
An in-depth study of the metabolic processes is followed by an introduction to pathological chemistry and physiology. Emphasis is placed upon changes in the blood and urine which reflect abnormal metabolic processes.

Physiology – Digestion/Nutrition – 5 hours per week Phys 135
An integrative course including studies of the physiology and biochemistry of digestion, absorption, and utilization of food with emphasis on the clinical aspects of nutrition.

Pathology – Elements of General Pathology I –
5 hours per week P-133
The investigation of those pathological mechanisms common to all tissues – cell pathology and histopathology. Special attention is paid to the processes of cellular adaptation, inflammation, repair and neoplasias.

Pathology – Hematopoetic and Lymphatic System Pathology –
5 hours per week P-132
Normal aspects of blood as well as blood and lymphatic dyscrasias are discussed. A consideration of the antigen-antibody reaction and diseases of immunity follows. The course is completed by a study of fluid and hemodynamic derangements and collagen diseases.

Technique Roentgenology – TR-1
3 hours per week R-131
This is an introductory course exposing the student to the properties of ionizing radiation, the structure and function of the x-ray tube, radiation safety, radiographic equipment and principles of processing.

Technique Roentgenology – TR-1 – Technique
2 hours per week T-131
Basic x-ray work, basic palpation skills, posture analysis, finding anatomical landmarks of the spine.

SOPHOMORE YEAR
Anatomy – Neurology – Peripheral Nervous System –
5 hours per week A-217
The course deals with cranial nerves, their central connections in the brain system, and their distribution. Subsequent studies are on the spinal nerves and their peripheral distribution. Nerve interference causing dysfunction and potential disease processes are emphasized. (Prerequisite A-137)

Chemistry – Chemistry Lab – 10 hours per week C-214
Clinical biochemistry is the main topic dealt with in this lab course. The student is introduced to laboratory procedures in biochemistry, urinalysis, hematology, etc. Emphasis is placed on the interpretation of laboratory results and their place in clinical chiropractic.

Physiology – Endocrinology – 5 hours per week Phys 214
A comprehensive study of endocrine disorders. The role of the endocrine system in maintaining homeostasis, and the relationship of the nervous system to the endocrine system are explored in detail.

Pathology – Subluxation Pathology – 5 hours per week P-214
The mechanisms of production of pathologies by the subluxation are studied in this course from the aspect of physiology and pathophysiology. Attention is given to central versus peripheral neurological effects as well as pain syndromes, visceral dysfunction and visceral pathology.

Technique – Roentgenology – TR-II –
5 hours per week T-212, R-212
Reinforces spinal palpation skills of the upper cervical region, upper cervical x-ray analysis, upper cervical adjusting procedures.

Anatomy – Human Dissection –
5 hours per week A-225
A course in human dissection, involving complete dissection of human cadavers. All systems are studied, with particular emphasis on the relationships between the musculo-skeletal and the nervous system. (Prerequisites A-110, 111, 124, 129, 138, 217)

Physiology – Neurophysiology – 5 hours per week Phys 223
A course dealing with the function of the nervous system, with particular emphasis placed upon the relationship of the nervous system to the clinical science of chiropractic. The course includes studies of the history of the neuron, the fundamentals of nerve impulse generation and conduction, the reflex arc and more complex neuronal circuits. The function of the pyramidal and extrapyramidal systems and the vestibular and reticular systems, and their roles in disease processes are thoroughly presented.

Physiology – Cardiovascular –
5 hours per week Phys 226
This course deals with the fundamental mechanisms of the cardiovascular system. Special emphasis is given to its role as one of the major control systems in maintaining homeostasis.

Pathology – Elements of General Pathology II –
5 hours per week P-225
The course content includes a study of systemic and deficiency, genetic, infectious diseases and chemical, physical and environmental aggression.

Technique – Roentgenology – TR-III –
10 hours per week T-223, R-223
Reinforces palpation skills, basic spinal mechanics, cervical x-ray analysis, cervical adjusting procedures, orthopedic and neurologic examination for the cervical spine, instrumentation.

Anatomy – Special Senses – 3 hours per week A-2311
This course deals with the anatomy, physiology and pathology of conditions affecting the senses of smell, touch, taste, hearing and equilibrium. The student is taught to correlate his knowledge of anatomy, physiology and pathology, in preparation for him to apply it on a practical level, commensurate with the needs of the patient.
(Prerequisites. A-112, A-113)
A lecture and laboratory course which deals in depth with the physiological and clinical aspects of the cardiovascular, respiratory and renal systems. Emphasis is placed on the integrative roles of these systems and the impact they have on the total health of the individual.

Chemistry – Physiological Chemistry and Toxicology –
5 hours per week C-235
A correlative study of human physiology approached from the biochemical viewpoint. In addition, the subject of toxicology is discussed in detail.

Physiology – Renal and Pulmonary –
5 hours per week Phys-237
This course deals in depth with the mechanisms of respiratory and renal physiology. Emphasis is placed on the integrative roles of these systems in maintaining homeostasis.

Pathology – Public Health – 10 hours per week P-236
This course deals with major aspects of public health including the principles of disease control, communicable diseases, public health organizations and parasitology.

Philosophy – Chiropractic Philosophy - 232
2 hours per week
The course embraces a review of the basic philosophical tenets covered in freshman philosophy. It also exposes the student to the definitions of philosophy as recorded by many of the noted philosophers of the past; further, classroom discussions are encouraged to examine the relevancy and similarities of these general philosophies to chiropractic philosophy.

Technique – Roentgenology – TR-IV –
5 hours per week T-234, R-234
Reinforces palpation skills, reinforces spinal mechanics, thoracic x-ray analysis, thoracic adjusting procedures, orthopedic and neurologic examination for the thoracic spine, instrumentation.

JUNIOR YEAR

Physiology – Correlative Physiology Laboratory –
5 hours per week Phys-318
This course provides the student with a laboratory experience in certain clinically significant areas of neurophysiology and cardio-renal-pulmonary physiology.

Pathology – Cardiovascular and Pulmonary Pathology –
5 hours per week P-317
The concepts of basic pathology are applied as they relate to specific conditions of the cardiovascular and pulmonary systems. Clinical considerations are emphasized.

Pathology – Gastrointestinal and Genitourinary Pathology –
5 hours per week P-318
The pathophysiology of the most significant of the digestive and urogenital pathologies are studied. Clinical considerations are emphasized.

Pathology – Neuromuscular and Skeletal Pathology –
5 hours per week P-319
The most significant of the neurological, muscular, and skeletal systems pathologies are studied. Clinical considerations are extensively emphasized.

Roentgenology – Physics – 5 hours per week R-316
An introductory course in the physics of roentgenology. Photon production, projection, collimation, attenuation and image formation are among the topics considered. The various components of roentgenographic systems are studied as are the fundamentals of darkroom procedure. Emphasis is placed on the biological effects of ionizing radiation and on patient protection.

Technique – Roentgenology – TR-V –
5 hours per week T-315, R-315
Reinforces palpation, reinforces spinal mechanics, two lumbar x-ray analysis, lumbar adjusting procedures, orthopedic and neurologic examination of the lumbar spine.

Diagnosis – Physical Diagnosis Method – 12 hours per week D-321
This fundamental course includes the method of taking a narrative

case history as well as the basic method of examination of the skin, head and neck, thorax and lung, cardiovascular system, abdomen and urogenital system, and the neuromusculoskeletal system.

Roentgenology – Positioning – 5 hours per week   R-328
A practical course in roentgenologic technology, with emphasis placed upon special chiropractic procedures. Machine operation, patient positioning, and film processing are demonstrated and discussed. Radiography of the appendicular skeleton is included. Practical work is done using simulated human phantoms. Emphasis is placed on patient and operator protection and radiographic quality assurance.

Clinic I – 3 hours per week   C-321
This is an introductory course in which the student is afforded his first opportunity to assume the responsibility of caring for a patient, in this case a student. Complete instruction is given in the various phases of clinic procedure, namely, PCC requirements, the laws of the State of Iowa, proper patient handling procedures and the use of analytical and adjusting equipment.

Technique – Roentgenology – TR-VI –
10 hours per week   T-326, R-326
Reinforces palpation, pelvic mechanics, two pelvic x-ray analysis, pelvic adjusting procedures, orthopedic and neurologic examination of the pelvic region, instrumentation.

Diagnosis – Roentgenology D-RI – 15 hours per week   D-332, R-339
This intermediate level course expands the student's understanding of the pathophysiology of the neuromusculoskeletal system. The student's ability to evaluate the symptomatology of diseases of bones, joints, muscles and the nervous system is increased. The course also deals with the roentgenographic manifestations of pathology in the skeletal system.

Philosophy 333 – 5 hours per week
The objective of this course is to assist the student to continue to develop a meaningful perspective on health and disease, within the framework of the scientific method, and the philosophy of chiropractic. Emphasis is placed upon developing the student's ability to effectively

communicate the concepts of our clinical specialty to other members of the scientific community, and to his patients. Various chiropractic analyses and adjusting procedures are discussed and evaluated. A review of the history of chiropractic is included.

Clinic II – 5 hours per week   C-332
In this course, the student doctor is assigned additional student patients, and, under supervision, may accept outpatients. In this clinic he has his first opportunity to deal with the public in the role of doctor. Throughout the course, the student doctor is guided in examination and adjusting procedures. Emphasis is placed on developing professional skills and attitudes.

Technique – Review – 5 hours per week   T-337
This is a complete review of spinal evaluation and adjusting procedures. It covers the fine points of material covered in the TR program and covers case management.

SENIOR YEAR

Anatomy – Clinical Anatomy   5 hours per week   A-4110
A team taught course that correlates previous courses in Anatomy with the clinical experiences of the students. Topics discussed will include topographical anatomy, review of human dissection, genetics and congenital malformations, skeletal-muscular articulations, and recognition of surgical-anatomical variations. Course material will be flexible, depending on the availability of instructors.

Diagnosis – Roentgenology – DR-II –
10 hours per week   D-413, R-4110
This intermediate level course expands the student's understanding of the pathophysiology of the cardiovascular system, blood dyscrasias and lymphatics, thorax and lower respiratory system. He learns to better evaluate this area. The course also deals with the roentgenographic manifestations of pathologies of the respiratory and cardiovascular systems.

Diagnosis – Obstetrics and Gynecology – 5 hours per week   D-414
A survey course of the specialty, with emphasis placed upon practical aspects as related to chiropractic practice. Gynecology encompasses a comprehensive study of the anatomy, physiology and pathology of the female reproductive system, and common diseases of the

female. Obstetrics lectures cover the physiology of pregnancy, labor and the complications which may arise due to disease. Class material is extensively supplemented by audio visual aids.

Diagnosis – Pediatrics & Febrile Disorders – 5 hours per week D-415
Physical and mental development, disorders of childhood and the special needs of children are considered in this course. Special attention is paid to the febrile disorders of childhood. Clinical application of such studies to the practice of chiropractic is emphasized.

Clinic III – 5 hours per week C-413
A continuation of Clinic II, the student continues to render chiropractic care to his student patients and to build his outpatient practice and perfect his clinical skills.

Diagnosis – Roentgenology DR-III –
5 hours per week D-426, R-4211
The student's understanding of the pathophysiology of the gastrointestinal and male genitourinary systems is enhanced by this course. These areas and their particular problems are the focus for the student's diagnostic efforts in this course. Roentgenographic manifestations of pathologies in this area are also presented.

Diagnosis – 427 – 5 hours per week
The student in this course increases his awareness of and ability to evaluate the eye, ear, nose and throat, the skin and the endocrine system.

Roentgenology – Pathology Review – 5 hours per week R-4212
A review of osseous and soft tissue pathology. Students review x-ray technology with emphasis on quality assurance and radiation safety. Also, the course covers functional studies, particularly on the spinal column, which includes studies from cineroentgenography. Time also is devoted to studying the radiographic approaches to spinal trauma. Senior students are presented with information concerning the latest developments in radiography.

Clinic – Ethics and Jurisprudence – 5 hours per week C-425
This course stresses the value of good patient case history records, and thorough and careful clinical procedures. The doctor-patient relationship, and the responsibilities enjoined on both parties is considered. The relationship of the doctor to his patient and his community is considered. The chiropractic legal aspects of practice are also stressed.

Clinic IV – 10 hours per week C-424
This is an extension of Clinic III. The student continues to build his outpatient practice while maintaining his student patients. If certain qualifications and requirements have been met the student DC may serve as a departmental assistant at this time. In this capacity he assumes more responsibility and also helps earlier clinic students with their practices.

Diagnosis – Geriatrics – 5 hours per week D-439
Elderly patients and special problems associated with their care are dealt with in this course. Special bookwork for patients on Medicaid and Medicare is discussed.

Diagnosis – Dynamics of Behavior – 5 hours per week D-438
A survey course in the etiology systems and psychodynamics of mental disorders. Consideration is given to the fundamentals of psychological evaluation and the relationship of chiropractic to mental disorders.

Philosophy 434 – 5 hours per week
This course ties together the various aspects of the student's training and experience while at Palmer, and refocuses his attention on the fundamental principles and practices of chiropractic.

Diagnosis – Clinical Diagnosis Conference –
5 hours per week D-4310
The student is afforded the opportunity to arrive at diagnoses, determine chiropractic regimen and establish prognoses, when given case history, exam information, roentgenographic studies and test results.

Clinic V – 10 hours per week C-436
The student DC begins to transfer his patients to lower quarter clinic students so that he may close his records to graduate. Meanwhile he may continue as a departmental assistant.

Degrees Offered

Doctor of Chiropractic Degree
Each candidate for a doctor of chiropractic degree is required to complete a minimum of four academic years of nine months each of classroom work of the prescribed curriculum.

The chiropractic course is so arranged that the student may choose either an accelerated course of thirty-six consecutive months or a course of nine months taken in each of four calendar years. Each arrangement contains 4,320 classroom hours.

Students transferring from other accredited chiropractic colleges must complete a minimum of two academic years of classroom work in residence at Palmer College. The final academic year prior to graduation must be in residence at Palmer College.

SPECIAL NOTE:
All matriculants are required to pass Part I of the National Board Examination prior to graduation or the equivalent as determined by the college.

Bachelor of Science and Bachelor of Arts Degrees
A cooperative program has been arranged with St. Ambrose College, Davenport. St. Ambrose College will offer two programs:

1. A two-year pre-chiropractic curriculum and advise students following this curriculum so that a student will be accepted into Palmer College of Chiropractic upon successful completion of this curriculum. At least 60 credits must be earned in this curriculum.

2. A three-year pre-chiropractic curriculum (at least 90 credits) which when successfully completed will earn a St. Ambrose B.A. or B.S. degree in biology when in addition that student has successfully completed the program of Palmer College of Chiropractic and successfully passed the examination given by the National Board of Chiropractic Examiners.

Students at PCC who have earned pre-professional entrance credits at other accredited institutions may submit their transcripts to St. Ambrose for evaluation to qualify for this Bachelors degree program. A maximum of 60 semester credits may be granted by St. Ambrose toward the 90 credits required for this program. After permission is granted by the counseling departments of both Palmer College of Chiropractic and St. Ambrose College, credits may be earned at St. Ambrose concurrent with attendance in chiropractic curriculum.

Upper Iowa University, Fayette, has instituted a program wherein a Bachelor of Science Degree may be awarded to graduate Doctors of Chiropractic after completion of a minimum of 4 modules (32 semester hours) of extension courses and a six semester hour residency course.

Up to 3 academic years credit is granted by U.I.U. for pre-chiropractic study.

The following institutions also offer the two-year pre-chiropractic curriculum and transfer of credits from PCC toward a Bachelor of Science degree:

St. Ambrose College
Davenport, Iowa

Hillsdale College
Hillsdale, Michigan 49242

Loras College
Dubuque, Iowa 52001

California State College
California, Pennsylvania 15419

Plans for attainment of the Bachelors degree vary at these colleges, and information on PCC credit transfers should be obtained from them.

POSTGRADUATE SCHOOL OF CHIROPRACTIC STUDIES

The PCC Postgraduate School of Chiropractic Studies acts as a separate agency in meeting the needs of the modern doctor of chiropractic. The Postgraduate School of Chiropractic Studies provides a series of integrated, on-going seminars to improve the skills of the graduate chiropractor. Specific areas of instruction in chiropractic technique, incidental procedures, instrumentation, analysis, laboratory test interpretation, nutrition, orthopedics and roentgenology, x-ray diagnosis analysis and protection are offered as the core structure of the seminar schedule.

Postgraduate school faculty present seminars on campus and throughout the country.

A separate bulletin is available upon request. Address inquiries to: Postgraduate School of Chiropractic Studies, Palmer College of Chiropractic, 1000 Brady Street, Davenport, Iowa 52803.

Exhibit B-1

Medical Center

Southfield and Outer Drive
Allen Park, MI 48101

Veterans Administration

RECEIVED
FEB 17 1981

February 6, 1981

Larry J. Schumacher, D.O.
224 S. Cedar Street
Kalkaska, MI 49646

Dear Sir:

Reference is made to your statement for services rendered the veteran noted below on December 17, 1980.

The Veterans Administration is unable to approve payment for the above services because of the following:

☐ The veteran was not treated for a service connected disability.

☐ The services were not authorized by the VA.

☒ Services by a Chiropractor are not a VA benefit.

☐ The maximum amount allowed by our current Medical Fee Schedule has already been paid.

☐ Other:

Sincerely,

Samuel L. Burkett

SAMUEL L. BURKETT
Chief, Medical Administration Service

cc: Mr. LaBell

SS# 373-44-3003 LaBELL, Gregory
In Reply Refer To 553/136B2 (313) 562-6000, Extension 460 or 470

VA FL 10-23 (553)
June 1979

Exhibit B-2

Medical Center

Southfield and Outer Drive
Allen Park, MI 48101

Veterans
Administration

December 16, 1981

Business Manager
Associates Chropractic
4720 S. Division
Grand Rapids, MI 49508

Dear Sir:

Reference is made to your statement for services rendered the veteran noted below on November 19, 1981.

The Veterans Administration is unable to approve payment for the above services because of the following:

☐ *The veteran was not treated for a service connected disability.*

☐ *The services were not authorized by the VA.*

☒ *Services by a Chiropractor are not a VA benefit.*

☐ *The maximum amount allowed by our current Medical Fee Schedule has already been paid.*

☐ Other

Sincerely,

SAMUEL L. BURKETT
Chief, Medical Administration Service

cc: Mr. Laube

SS# 368-18-1761 LAUBE, Edward

Exhibit C.

A Study of Time Loss Back Claims

Workmen's Compensation Board, State of Oregon

Because back injuries seem to be a continuing perplexity to the professions, the insurers, the employers, and the agencies who administer workmen's compensation laws, this study of a limited number of claims was initiated.

This study began one year prior to the writing of this paper. Initially all time loss back injury claims received in our Compliance Division for a period of one month were examined and certain basic information was recorded.

One year later these same claims were re-examined. There are a total of 237 claims in this study. They are claims which are not complicated by other bodily injuries or illness. Thus, back injury in either the cervical, dorsal, or lumbar areas, or combinations thereof, is the essential problem.

The average age of these workmen is 40.16 years. The range of ages is from 17 years to 68 years. Breaking this down in age groups we see the following:

17 - 20	2.5%
20 - 30	22.0%
30 - 40	22.4%
40 - 50	24.9%
50 - 60	19.8%
60 - 70	6.3%
Unknown	2.1%

Thus we can see the bulk of these claimants fall into the 30-50 year category. They have approximately 15-35 years of working life remaining, in theory.

Twenty-eight of the claimants are females. This gives us approximately a 8:1 ratio of male:female claimants. The occupations of all claimants range from what can be considered sedentary to hard manual labor. Most claimants do manual labor of some form in their day to day jobs.

Time loss:

Examining the periods of time loss from work shows 66% of the workmen's claims are closed by the end of 8 weeks. A total of 81% of the claims are closed by the end of 41 weeks of time loss. The remaining 19% of the claims remain open after one year.

Thus it appears from this sample of back injury claims, we might expect four-fifths of our workmen will return to work within one year or less from the date of their injury. One fifth of our workmen will still be receiving time loss payments beyond one year from the day of injury.

Treatment and time loss:

The majority (212 workmen) were treated by various conservative methods. Surgery was performed on twenty-five claimants. Of these, eleven claims are now closed with less than one year of time loss. All eleven claimants had hemilaminectomies except one man who had a rhizotomy.

Fourteen workmen, or 56% of those operated, remain on time loss after one year from the day of injury. All but three had laminectomies. Two claimants had a laminectomy and fusion. One other workman received a spinal fusion.

Examining the forms of conservative therapy the majority received, it is interesting to note the results of those treated by chiropractic physicians.

A total of twenty-nine claimants were treated by no other physician than a chiropractor. 82% of these workmen resumed work after one week of time loss. Their claims were closed without a disability award.

Examining claims treated by the M.D., in which the diagnosis seems comparable to the type of injury suffered by the workmen treated by the chiropractor, 41% of these workmen resumed work after one week of time loss.

Disability awards:

Of the 193 claims closed prior to one year of time loss, 15.5% were granted permanent partial disability awards. Seen below is the distribution of awards.

Award	16°	32°	48°
Number of Claimants	7	15	8

A more detailed examination of the claims of those workmen receiving the greatest award of 48° was made and is shown in the following table. All but one are above the average age. No correlation exists between the degree of the award and time loss. Less than one half have had prior back injury.

Disability Awards of 48°

Age	Diagnosis	Treatment	Time Loss	Prior Inj.	Prior Award
57	Lumbosacral strain Degenerative arthritis	Conserv.	11 wks	No	Unknown
55	Strain. Degenerative disc disease	Conserv.	20 wks	Yes	No
45	Herniated intervertebral disc	Laminectomy	41 wks	No	Unknown
33	Compression fracture T-8, T-9	Conserv.	4 wks	Yes	No
46	Compression fracture L-2	Conserv.	40 wks	No	Unknown
58	Acute lumbosacral strain	Laminectomy	23 wks	No	Unknown
57	Herniated intervertebral disc	Laminectomy	20 wks	Yes	Unknown
55	Degenerative disc disease	Conserv.	27 wks	No	No

Open Claims:

a.) There are 19% of the claims in an open status after one year of time loss. The diagnosis given in 31% of these claims is Herniated Intervertebral Disc. Cervical, dorsal, or lumbar strain, or combinations thereof, is the diagnosis given in 50% of these claims. The remaining 19% have various diagnostic titles attached to the back injury.

Fourteen claimants have been treated surgically, as seen in the following table.

Laminectomy	- 11
Fusion	- 1
Laminectomy and fusion	- 2

The remaining thirty workmen are under conservative care.

b.) Treating physicians:

General practitioners are considered to be the initial or treating doctor in 47% of these claims. Orthopedics are the initial physician in 25%. The remainder show chiropractors, osteopathic physicians, neurosurgeons, surgeons and internists as the initial treating doctor.

c.) Consultants:

All but five of these forty-four workmen have been referred for consultation to one or more medical specialists. Orthopedists act as consultants 54.5% of the time. Neurosurgeons or neurologists are consultants in 31.8% of those referred.

d.) Rehabilitation:

Referral to the Workmen's Compensation Board's Physical Rehabilitation Center occurred in nine claims. Six of these workmen were referred on for vocational rehabilitation. Two workmen were apparently referred directly to DVR who did not enroll in P.R.C.

Of these six workmen considered as possible candidates for vocational rehabilitation, none are being trained. One was considered "functionally illiterate." One began training in graphic arts, but dropped the course and is wanting to become a truck driver. Another was considered untrainable. No vocational objective has been decided upon for another, at this time. One man was declared ineligible because of age, lack of training and job market. Finally, the sixth man was not referred because his disability was not found to be great enough. So it appears we have a 100% failure rate in this group of claimants.

Summary:

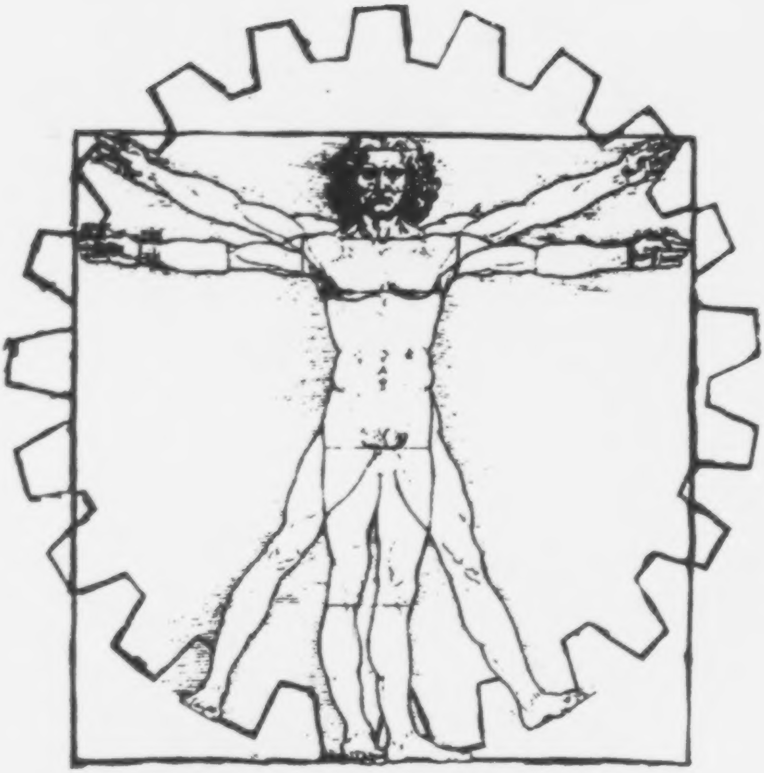
If we can use this sampling as an indicator, we can assume the average workman who injures his back at work will be about 40 years of age. He will probably receive conservative treatment. There is a 66% chance he will not lose more than eight weeks work, and there is only a 15% chance there will be any permanent partial disability resulting from his injury.

Of all the workmen who injure their backs at work, one-fifth will continue in a time loss status beyond one year. There is a 31% chance this group will undergo surgical treatment.

Utilization of our physical rehabilitation center occurred in 3.3% of these claimants, two-thirds of whom were referred for consideration of vocational rehabilitation. But, in this study, it was for naught.

Rolland A. Martin, M.D.
Medical Director
Workmen's Compensation Board

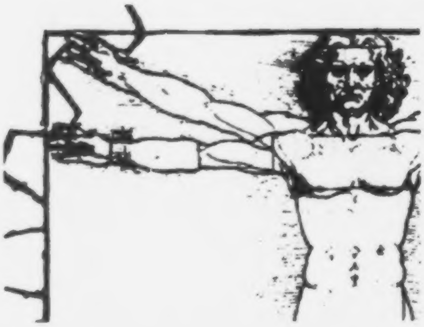
March 1971



INDEPENDENT STUDIES OF INDUSTRIAL BACK INJURIES

COMPILED BY THE
INTERNATIONAL CHIROPRACTORS ASSOCIATION

INDUSTRIAL BACK INJURY CARE: A COMPARISON OF METHODS



While an industrial back injury is certainly painful to the employee, it also creates problems for labor, management and insurance companies. It's to everyone's advantage to correct the back injury as quickly as possible. The question then arises as to which is the most efficient method of caring for industrial back injuries. Fortunately, we don't have to rely on mere opinion for the answer; several major studies of this very situation have already been made and are thoroughly documented.

While this booklet provides the basic details of some of the more important studies, they do deal solely with industrial back injuries. In passing, it should be noted that the back strains and sprains that plague industry can afflict anyone. The identical type of injuries can often be found in the housewife who lifts a heavy basket of clothes, the office worker who shovels snow from the walk, the weekend gardener, or in any number of commonplace activities. Obviously records are kept more thoroughly on industrial back injuries, but the same pattern could apply just as well to many other areas.

AN EARLY STUDY

While this study goes way back to 1949, and the costs and wages seem ludicrous by our current inflated standards, the pattern that emerges is one that has held up over the years. Back strain injuries then accounted for ten per cent of all lost time injuries, according to the National Safety Council. The results were obtained from Workmen's Compensation records, field reports and insurance companies, comparing the differences in four types of back injury care: chiropractic, osteopathy, medical non-hospital, and medical hospital. As previously mentioned, the costs of that time are difficult to relate to today's costs (the average wage of the workers in the study was $50.80 a week, for example.) The following shows the results of treatment by the four health care methods.

Number of Work Days Lost

	Workmen's Compensation	Insurance Companies*
Chiropractic	10.89	5.05
Osteopathy	11.50	5.93
Medical (Non-hosp.)	19.88	8.27
Medical (Hospital)	33.83	14.4

*Their figures reflect only those cases that required more than 7 days of treatment.

The field reports were compiled from chiropractors' records throughout the United States and Canada, and consequently make no comparisons with other types of treatment. However, there are certain findings that should be highlighted. Of those who visited a chiropractor, 48% lost no time from their job. There is another conclusion to be drawn: the sooner the injured worker went to the chiropractor, the more effective the treatment and the fewer the lost work days. Of those who went immediately to their chiropractor, 63% lost no time at all. There were only 36% who reported no lost work days if they waited more than 30 days before seeking chiropractic help. When you consider that an estimated 10 million work hours are lost each year because of back injuries, these findings are extremely important.

FLORIDA STUDY

In 1956 an independent research study of the records of the Florida Industrial Commission was made, covering all cases of sprains and strains of the neck, spinal column vertebrae and back (external). The total number of cases analyzed was 19,666. In this study comparisons were made between patients treated by medical doctors and chiropractors. All figures given are averages.

	Total Treatment Cost	Work Days Lost	Number of Treatments
Chiropractors	$ 60	3	9
Medical Doctors	$102	9	6

The same comparison was made of cases treated by chiropractors and those treated by specialists: orthopedists, neurologists and occasionally psychiatrists. All figures given are averages.

	Total Treatment Cost	Work Days Lost	Number of Treatments
Chiropractors	$ 59	2.5	8.6
Specialists	$299	30	18.1

The facts speak for themselves, especially when it is noted that strains and sprains are increasing in cost and frequency out of proportion to all other types of industrial injury.

OREGON STUDY

In 1971 another industrial back injury study was performed, using records of the Workmen's Compensation Board of the State of Oregon. While the sample was less than that reviewed in some of the other studies covered in this booklet, the findings are clearly of significance. There were 237 cases studied; of these, 25 underwent surgery (after one year, 14 of those remained on a time-loss basis). On non-surgical treatment for comparable types of diagnosis, 82% of those treated by chiropractors were able to resume work after one week of time lost, as opposed to 41% being able to go back to work full time after one week of time lost after being treated by medical doctors.

CALIFORNIA STUDY

C. Richard Wolf, M.D., utilizing records provided by the California Division of Labor Statistics and Research, in 1972 completed an independent study of back injuries which are routinely reported to the Division. Dr. Wolf's study was designed to compare time loss due to industrial back injury when treated by either a medical doctor or a chiropractor. The study was set up to deal with the next arriving 500 reports of back injuries treated by M.D.'s and the next 500 who sought chiropractic care. Each of the patients was contacted by mail and asked three questions regarding the treatment they had received. Of the 1,000 queried, 629 replied to the letters. The results are tabulated here.

	Aver. No. Work Days Lost	% Reporting Complete Recovery	% Reporting No Lost Work Time	% Losing Over 60 Work Days
Chiropractor	15.6	51	47.9	6.7
Medical Doctor	32	34.8	21	13.2

SUMMARY

We have now covered the facts as revealed by official records from people who could conceivably have no bias in the matter. They deal only in statistics. Ranging from 1949 through 1972 the conclusions are inescapable: chiropractic is far more effective in dealing with industrial back injuries. The records reach this inescapable conclusion without any additional comment being required.

Industrial Back Injury

(Study Completed in December, 1972)

By:
C. Richard Wolf, M.D.

Special Credit is given to
Dr. Floyd R. Hill.

A comparison of patient-reported time loss-treated by medical doctors vs. treated by chiropractors.

BACKGROUND

The total number of disabling back injuries reported to the Calif. Division of Labor Statistics and Research more than doubled during the years 1950-1970. The rate of lost-time back injuries per 1,000 employed workers has been relatively stable, ranging from a low of 6.9 in 1957 to a high of 7.5 in 1955 and 7.4 at the end of the period in 1970. However, back injuries have risen as a proportion of total lost-time work injuries from a low of 17.6% in 1950 to a high of 24.1% in 1970. This would imply that attempts to prevent lost-time back injuries have not been as successful as those of other accident problems since no reporting artifacts appear to explain this phenomenon.[1]

According to the California State Labor Code, all illnesses arising out of conditions of employment are defined as injuries and must be reported by practitioners to the California Department of Industrial Relations. These reports entitled "Doctor's First Report of Work Injury", have been analyzed, tabulated and published as epidemiologic studies by this author on previous occasions.[2,3,4] It seemed appropriate, therefore, to utilize these reports to study the problem of lost time from back injuries. Problems of under-reporting, incomplete reporting and, on occasion, inaccurate reporting exist and have been studied and discussed.[5] It is of considerable significance that these reports describe only the first visit to a practitioner and therefore little can be learned about time loss except as estimated on some reports. After reviewing many reports, it became apparent that many injured employees were electing to visit a chiropractor for treatment of their back injuries. Martin[6] studied 237 time-loss back claims. Twenty-nine claimants were treated by no other practitioner than a chiropractor with 82% of these resuming work after one week of time loss. Their claims were closed without a disability award. He examined claims treated by medical doctors in which the diagnosis seemed comparable to the type of injury suffered by the workmen treated by the chiropractors. 41% of these workmen resumed work after one week of time lost. He further stated that no conclusions should be drawn on such a small study, that these findings were only one observation of the overall study, but, that serious studies of the different treatment modalities and comparisons of the success ratio are sorely needed.

This present study was designed to compare time loss due to industrial back injury when treated by either a chiropractor or a medical doctor, using the records of the Division of Labor Statistics and Research (Doctor's First Report of Work Injury).

STUDY DESIGN

The Division of labor Statistics receives and sorts over 1,000,000 first reports each year. At the author's request, 500 back injury reports signed by M.D.'s and 500 signed by chiropractors were consequently selected as they arrived in the mail.

When these reports were reviewed, it was obvious that no conclusions could be drawn regarding comparability of diagnosis. The very nature of the difference in treatment philosophy excluded the possibility of having comparable diagnostic categories. Furthermore, the factor of case selection was built into the study by virtue of the fact employees voluntarily selected either an M.D. or a chiropractor.

Since diagnoses were not comparable, self-selection of cases was unavoidable and no reliable information could be obtained about time loss from the report. It was decided that each employee would be contacted using the report only as source of cases for the study.

A short form letter was sent to each of the 1,000 injured employees. Referring to the specific doctor visit reported, the letter read as follows:

> "Our office reviews selected copies of Doctor's First Report of Work Injury with the aim of prevention of illness in workers."
>
> "Back injuries are a large percentage of work injury reports. In the hope of learning something which may be useful in preventing illness from back injuries, we would appreciate more information about the work injury report, when you were seen by ________ on ____________ The information you give will be used as a statistical tabulation only. *This has nothing to do with allowance of claim or payment of claims.*
>
> (1) How much time did you lose from work with this injury? (   )
>
> (2) Do you still have pain or stiffness at the site of this injury?
> Yes (   )   No (   )
>
> (3) Are you completely over this episode so far as you can tell?
> Yes (   )   No (   )
>
> "A postage-free envelope is enclosed for your convenience in returning this query."

When about 475 responses had been received and additional ones were arriving only occasionally, a second mailing was made to all who had failed to respond and an additional question was added:

> (4) Did you consult any other doctor before the one above, if so, was it a chiropractor or medical doctor? Of the 82 responding to this letter who had visited a chiropractor on the Doctor's First Report, 16 had first gone to an M.D. Of the 95 responding who had gone to an M.D. on the Doctor's First Report, 9 had first gone to a chiropractor.

Table I is a tabulation of responses to the questions.

Table I

	Employees Treated by Medical Doctors (M.D.'s)	Employees Treated by Doctors of Chiropractic (D.C.'s)
Number of Employees Sent questionaire	500	500
Number of Employees Responding	333	296
Average Age of Employees Responding	39.7 years	42.9 years
Percent Female Employees	20.4%	13.8%
Total Lost Time (days)	10,641 days	4,627 days
Average Lost Time (days per Employee)	32 days	15.6 days
Percent Employees Reporting Complete Recovery	34.8%	51%
Percent Employees Reporting No Lost Time	21%	47.9%
Percent of Reporting Employees Losing Over 60 days	13.2%	6.7%
Percent of Reporting Employees Given Diagnosis of Strain or Sprain	69%	82%

DISCUSSION

Of the original 1,000 injured employees who were sent letters, replies were obtained from 629, for an overall 63% response. 333 patients treated by M.D.'s responded and 296 patients treated by chiropractors responded. All letters returned due to address change in both categories were followed up by telephone and in the most cases the information was obtained verbally from these. The remaining cases that were sent a second letter without response were not followed up further.

A remarkable similarity in diagnoses was recorded by both groups. Either "strain" or "sprain" was written on the First Report by 69% of M.D.'s and 82% of chiropractors (of patients responding). It is the author's opinion that this reflects a reporting requirement of the agencies paying for the doctor visit with which both groups must comply, rather than representing a true agreement on underlying pathology.

In attempting to determine any difference in the two population groups, the only employment category that appeared significantly different between the two groups was the category "Nurses and L.V.N.'s". This accounted for the majority of the sex difference between the groups. 17 of 68 female injured employees treated by M.D.'s were nurses or L.V.N.'s, whereas only 1 of 41 female employees treated by chiropractors was a nurse. There was no significant difference in employment categories observed in males between the two groups. Both groups were made up equally of carpenters, laborers, mechanics, custodians, waitresses, truck drivers, etc.

The significant differences between the two groups appear to be as follows:

Average lost time per employee — 32 days in the M.D.-treated group, 15.6 days in the chiropractor-treated group.

Employees reporting no lost time — 21% in the M.D.-treated group, 47.9% in the chiropractor-treated group.

Employees reporting lost time in excess of 60 days-13.2% in the M.D.-treated group, 6.7% in the chiropractor-treated group.

Employees reporting complete recovery-34.8% in the M.D.-treated group, 51% in the chiropractor-treated group.

CONCLUSION

The author cannot explain these differences by any bias in study design, nor is there anything in the study to permit speculation as to relative treatment merits. Therefore some explanation remains to come forth.

SUMMARY

One thousand employees with industrial back injuries were questioned about the time lost and residual pain from their injuries. One-half of these injuries were reported as having been treated by medical doctors, the other half by chiropractors. Responses were obtained from 629. There were no apparent major indentifiable differences in the two groups with regard to age or employee categories. The major differences were: (1) employee statement of lost time; 32 days average for M.D.-treated group versus 15.6 days average for the chiropractor-treated group; (2) percentage of employees reporting lost time in excess of 60 days; 13.2% of those treated by M.D.'s versus 6.7% of those treated by chiropractors; and (3) percent of employees reporting no lost time; 21% of those treated by M.D.'s versus 47.9% of those treated by chiropractors.

The author is unable to explain these differences.

BIBLIOGRAPHY

1. California Work Injuries 1970 State of California Department of Industrial Relations Division of Labor Statistics and Research. 455 Golden Gate Avenue, San Francisco, Ca.
2. Wolf, C.R., Aeortitis in Air Travel California Medicine 117:10-12 November, 1972.
3. Wolf, C.R.; Baginsky, E.; Milby, T.H.; Patterns in Occupational Disease J. Occ. Med. 12:1-5 Jan. 1970.
4. Milby, T.H.; Wolf, C.R.; Respiratory Tract Irritation from Fibrous Glass Inhalation J. Occ. Med. 3: 449, 1961.
5. Berkov, B.M.; Kleinman, G.D.; Powers J.E., and Trasko V.M.; Evaluation of Occupational Disease Reporting in California J. Occ. Med. 3: 449, 1961.
6. Martin, R.A., M.D., Medical Director Workman's Compensation Board, State of Oregon Salem, Oregon 97310. Personal Communication, 1972.

A STUDY OF WISCONSIN INDUSTRIAL BACK INJURY CASES

August, 1978

completed by
Daniel J. Duffy, MBA
Market Research
University of Wisconsin—Madison

State of Wisconsin \ Department of Industry, Labor and Human Relations

OFFICE OF THE SECRETARY

Room 401 GEF-1
201 E. Washington Avenue
P.O. Box 7946
Madison, Wisconsin 53707
Telephone 608/266-7552

November 1, 1978

Mr. Del Beno
Executive Director
Wisconsin Chiropractic Association
22 South Carroll Street
Madison, Wisconsin 53703

Dear Mr. Beno:

After reading "A Study of Wisconsin Industrial Back Injury Cases," by Daniel J. Duffy, and reviewing the methodology with its author, my staff and I feel the study's results are most interesting. We agree with Mr. Duffy that it is "not deniable (that). . .the 'average' 1977 industrial back injury case treated by a chiropractor resulted in a shorter healing and compensation period, along with a lower medical and indemnity cost when compared to the 'average' medical case."

The issue of industrial back injuries, both in terms of prevention and treatment, is of great concern to my department. The potential importance of the issues your study raises could be of significance to Wisconsin's industry. I feel that your efforts into the assessment of back injury treatments merits further consideration and analysis.

Sincerely,

Zel S. Rice II

Zel S. Rice II
Secretary

pb

State of Wisconsin \ OFFICE OF THE COMMISSIONER OF INSURANCE

Martin J. Schreiber
Governor

HAROLD R. WILDE
COMMISSIONER

123 WEST WASHINGTON AVENUE
MADISON WISCONSIN 53702

(608) 266 3585

September 21, 1978

Mr. Del Beno
Executive Director
Wisconsin Chiropractic Association
22 South Carroll Street
Madison, Wisconsin 53703

Dear Mr. Beno:

I have read the study of Wisconsin Industrial Back Injury Cases which you referred to me, and discussed the methodology used with its author. Both he and I agreed that the study is limited in nature, and should only be referred to in its proper context (i.e., back injury cases, strain or sprain, etc). Appropriately understood within that context, I see no reason to dispute the conclusion which the author reached based on his review of the Department of Industry and Human Relations data.

Sincerely,

Harold R. Wilde
Commissioner of Insurance

HRW:mel

October 16, 1978

Mr. Del Beno
Executive Director
Wisconsin Chiropractic Association
22 South Carroll Street
Madison, WI 53703

Dear Mr. Beno:

At this point there is more than one possible explanation for the differences between chiropractic and medical cases, but one of these possible explanations is that chiropractic treatment is superior for treatment of back injury and, therefore, results in fewer permanent partial injuries.

I cannot say which explanation may be the correct one. The only conclusion that I have drawn from the results of the study is one that is not deniable. The "average" 1977 industrial back injury case treated by a chiropractor resulted in a shorter healing and compensation period, along with a lower medical and indemnity cost when compared to the "average" medical case.

Sincerely,

Daniel J. Duffy

Daniel J. Duffy

DJD/bls

A STUDY OF WISCONSIN INDUSTRIAL BACK INJURY

This report summarizes a study of industrial back injury in Wisconsin during 1977. The study compared back injury cases treated by a chiropractor with similar cases that were treated by a medical doctor. All injuries were diagnosed as either back strain or sprain, occurred during 1977 and were closed (settled) before June 1, 1978. Compared were the compensation times under Wisconsin Worker's Compensation law, the healing periods recorded by the state Bureau of Research and Statistics, the medical expenses per case, and the indemnity amounts, or income replacement, that was provided to the injured party during the recovery period. The results indicate that cases treated by a chiropractor will have, on the average, a significantly shorter compensation time and healing period, and that chiropractic treatment results in lower medical expenses and lower indemnity amounts per case. These results replicate the outcomes of similar studies made in a number of other states, and are quite similar to the results of a California study in industrial back injury that was done by a medical doctor. Before presenting the results of this study, the procedures used to obtain the cases and figures will be discussed.

Methodology

The following procedure was used to ensure a random selection of cases, and random selection assures objectivity.

1. Since back fractures and cases which result in permanant total disability or death are treated by medical doctors, and since including these cases would put an upward bias on expenses and time lost for medical cases, these injuries were omitted. The Wisconsin Bureau of Research and Statistics then provided a listing of all 1977 cases diagnosed as strain or sprain. This listing contained all the necessary numbers and information except the name and type of treating practitioner. This name was recorded in a file.
2. It was anticipated that at least 200 chiropractic cases and 200 medical cases were needed for the study, and that some cases selected would be unusable because of missing or confused information, thus approximately 650 of the 10,000 back strain or sprain cases were randomly selected.
3. The selected cases were then checked individually in the Worker's Compensation filing room of the state office building. Any ambiguity or conflicting information on the treating practitioner within the record of a particular case resulted in the rejection of that case. Cases in which the treating practitioner was clearly recorded were accepted, and 130 chiropractic and 430 medical cases were recorded.
4. To generate the additional chiropractic cases that were needed, an additional sample of 500 was taken randomly from the remaining cases. Of these, 82 were treated by a chiropractor, bringing the total number of chiropractic cases to 212. Since the first sample found 430, additional medical cases. were not needed, and therefore not recorded.
5. The desired information from the 642 total cases was then tabulated by computer, with the means, medians and ranges of the four major variables (time lost,etc) determined for both the chiropractic and medical cases.

The above methodology has produced a sample of Wisconsin industrial back injury cases that is repsentative of all 1977 cases.

Findings

In terms of compensation times, the average number of days for a chiropractic case was 13.2, and this compares with 21.8 for cases treated by M.D.s. The longest compensation time recorded for a chiropractic case was 96 days, and the longest for a medical case was 351 days. Table I shows the frequency distributions of the compensation times for both chiropractic and medical cases.

The average healing period for a medical case was 18.3 days, while the average for a chiropractic case was 14.1 days. The ranges were from four to 96 days for chiropractic cases, and from one to 161 days for M.D. treated cases. Table II shows the frequency distributions of the healing periods for cases treated by both types of practitioners.

Medical expenses for chiropractic cases ranged from no cost to $2384, with an average expense of $145.64 per case. For cases treated by a medical doctor, the amounts ranged from no cost to $4110, with an average of $267.58 per case. Table III shows the frequency distributions for medical expenses.

For cases treated by an M.D., the average indemnity amount was $442.74, with a range from zero to $4457. The average indemnity amount for a chiropractic case was $285.92, and the amounts ranged from zero to $2300. Table IV gives the distributions of the indemnity amounts for both chiropractic and

M.D. treated cases.

One additional variable was tabulated, that being the incomes of the injured parties. Since the indemnity amounts are usually set at two-thirds of the lost income, the averages could have been biased if the incomes of one group were lower than the incomes of the other group. However, the average wage of a chiropractic patient was found to be almost exactly the same as that of an M.D.'s patient, so there was not a problem of bias.

At present no explanations are offered to explain the differences between the costs in both time and money of back injury cases treated by a medical doctor versus similar cases treated by a chiropractor. Tables I through IV are found on the following eleven pages.

TABLE I
COMPENSATION TIMES FOR CASES TREATED BY A CHIROPRACTOR

```
COMP

                  ADJ  CUM                        ADJ  CUM                        ADJ  CUM
    CODE    FREQ  PCT  PCT     CODE     FREQ  PCT  PCT     CODE     FREQ  PCT  PCT

      1.      28   13   13      17.        4    2   76      33.        1    0   92
      2.      29   14   27      18.        7    3   80      34.        3    1   93
      3.       7    3   30      19.        3    1   81      36.        2    1   94
      6.       2    1   31      20.        3    1   83      39.        1    0   95
      7.      21   10   41      21.        3    1   84      44.        1    0   95
      8.      17    8   49      22.        2    1   85      48.        1    0   96
      9.      13    6   55      23.        2    1   86      50.        1    0   96
     10.       7    3   58      24.        3    1   87      53.        2    1   97
     11.       7    3   62      25.        2    1   88      57.        1    0   98
     12.       4    2   64      28.        2    1   89      63.        2    1   99
     13.       4    2   66      29.        1    0   90      73.        1    0   99
     14.       4    2   67      30.        2    1   91      94.        1    0  100
     15.       5    2   70      31.        1    0   91      96.        1    0  100
     16.      10    5   75      32.        1    0   92

MEAN            13.165      STD ERR         1.034      MEDIAN          8.654
MODE             2.000      STD DEV        15.051      VARIANCE      226.527
KURTOSIS         9.449      SKEWNESS        2.675      RANGE          95.000
MINIMUM          1.000      MAXIMUM        96.000

VALID CASES        212      MISSING CASES       0
```

TABLE I
COMPENSATION TIMES FOR CASES TREATED BY A MEDICAL DOCTOR

```
COMP
                   ADJ  CUM                      ADJ  CUM                        ADJ  CUM
   CODE      FREQ  PCT  PCT    CODE      FREQ  PCT  PCT      COnE      FREQ  PCT  PCT

     1.        35    8    8     27.         2    0   82       58.         1    0   94
     2.        38    9   17     28.         6    1   83       59.         1    0   94
     3.        17    4   21     29.         5    1   84       64.         1    0   94
     6.        10    2   23     30.         1    0   84       66.         1    0   94
     7.        27    6   30     31.         3    1   85       67.         3    1   95
     8.        23    5   35     32.         3    1   86       69.         2    0   96
     9.        20    5   40     33.         2    0   86       73.         2    0   96
    10.        13    3   43     34.         2    0   87       74.         1    0   96
    11.        14    3   46     35.         5    1   88       76.         1    0   97
    12.        19    4   50     36.         3    1   89       78.         1    0   97
    13.        18    4   54     37.         1    0   89       87.         1    0   97
    14.        12    3   57     38.         1    0   89       93.         1    0   97
    15.        18    4   61     39.         2    0   90       95.         1    0   97
    16.         9    2   63     40.         2    0   90      112.         1    0   98
    17.        15    3   67     41.         1    0   90      115.         1    0   98
    18.        11    3   70     42.         2    0   91      116.         1    0   98
    19.         7    2   71     44.         2    0   91      161.         1    0   98
    20.         6    1   73     45.         2    0   92      180.         1    0   99
    21.         8    2   74     47.         1    0   92      224.         1    0   99
    22.         5    1   76     48.         1    0   92      227.         1    0   99
    23.         5    1   77     50.         1    0   92      343.         1    0   99
    24.         7    2   78     51.         1    0   93      349.         2    0  100
    25.         7    2   80     53.         3    1   93      351.         1    0  100
    26.         5    1   81     54.         1    0   93

MEAN           21.826      STD ERR        1.949      MEDIAN        12,447
MODE            2.000      STD DEV       40.425      VARIANCE    1634.172
KURTOSIS       41.356      SKEWNESS       5.906      RANGE        350.000
MINIMUM         1.000      MAXIMUM      351.000

VALID CASES       430      MISSING CASES      0
```

TABLE II
HEALING PERIODS FOR CASES TREATED BY A CHIROPRACTOR

```
HEAL
                      ADJ  CUM                       ADJ  CUM                       ADJ  CUM
     CODE      FREQ   PCT  PCT     CODE      FREQ   PCT  PCT     CODE      FREQ   PCT  PCT

       4.        28    13   13      18.         7     3   80      34.         3     1   93
       5.        29    14   27      19.         3     1   81      36.         2     1   94
       6.         9     4   31      20.         3     1   83      39.         1     0   95
       7.        21    10   41      21.         3     1   84      44.         1     0   95
       8.        17     8   49      22.         2     1   85      48.         1     0   96
       9.        13     6   55      23.         2     1   86      50.         1     0   96
      10.         7     3   58      24.         3     1   87      53.         2     1   97
      11.         7     3   62      25.         2     1   88      57.         1     0   98
      12.         4     2   64      28.         2     1   89      63.         2     1   99
      13.         4     2   66      29.         1     0   90      73.         1     0   99
      14.         4     2   67      30.         2     1   91      94.         1     0  100
      15.         5     2   70      31.         1     0   91      96.         1     0  100
      16.        10     5   75      32.         1     0   92
      17.         4     2   76      33.         1     0   92

MEAN             14.071       STD ERR           .989       MEDIAN           8.654
MODE              5.000       STD DEV         14.405       VARIANCE       207.516
KURTOSIS         10.971       SKEWNESS         2.953       RANGE           92.000
MINIMUM           4.000       MAXIMUM         96.000

VALID CASES        212        MISSING CASES        0
```

TABLE II
HEALING PERIODS FOR CASES TREATED BY A MEDICAL DOCTOR

```
HEAL
                  ADJ CUM                  ADJ CUM                    ADJ CUM
   CODE     FREQ  PCT PCT    CODE     FREQ PCT PCT     CODE      FREQ PCT PCT

     0.        1   0   0      25.        7   2  80      49.         1   0  93
     4.       35   8   8      26.        5   1  82      50.         1   0  93
     5.       38   9  17      27.        2   0  82      51.         2   0  94
     6.       27   6  23      28.        6   1  83      53.         3   1  94
     7.       27   6  30      29.        5   1  85      54.         1   0  95
     8.       23   5  35      30.        1   0  85      55.         1   0  95
     9.       20   5  40      31.        3   1  86      58.         1   0  95
    10.       13   3  43      32.        3   1  86      59.         1   0  95
    11.       14   3  46      33.        2   0  87      64.         2   0  96
    12.       19   4  50      34.        2   0  87      66.         1   0  96
    13.       19   4  55      35.        5   1  88      67.         3   1  97
    14.       12   3  58      36.        3   1  89      69.         2   0  97
    15.       18   4  62      37.        1   0  89      73.         2   0  98
    16.        9   2  64      38.        1   0  90      74.         2   0  98
    17.       15   3  67      39.        2   0  90      76.         1   0  98
    18.       11   3  70      40.        2   0  90      78.         1   0  99
    19.        7   2  72      41.        1   0  91      87.         1   0  99
    20.        6   1  73      42.        2   0  91      93.         1   0  99
    21.        8   2  75      44.        2   0  92      95.         1   0  99
    22.        5   1  76      45.        2   0  92     112.         1   0 100
    23.        5   1  77      47.        2   0  93     116.         1   0 100
    24.        7   2  79      48.        1   0  93     161.         1   0 100

MEAN           18.302      STD ERR          .907      MEDIAN          12.395
MODE            5.000      STD DEV        18.813      VARIANCE       353.918
KURTOSIS       12.163      SKEWNESS        2.917      RANGE          161.000
MINIMUM          .000      MAXIMUM       161.000

VALID CASES       430      MISSING CASES       0
```

```
                    TABLE III
MEDIC               MEDICAL EXPENSES FOR CASES TREATED BY A CHIROPRACTOR

                 ADJ  CUM                      ADJ  CUM                      ADJ  CUM
   CODE    FREQ  PCT  PCT    CODE     FREQ  PCT  PCT     CODE     FREQ  PCT  PCT

     0.     17    8    8      80.       1    0   36      131.       1    0   68
     8.      1    0    8      81.       3    1   38      134.       2    1   69
    10.      1    0    9      82.       1    0   38      136.       3    1   70
    15.      1    0    9      83.       2    1   39      138.       1    0   71
    16.      2    1   10      84.       1    0   40      139.       2    1   72
    18.      1    0   11      87.       3    1   41      144.       2    1   73
    31.      1    0   11      88.       2    1   42      152.       1    0   73
    34.      2    1   12      89.       1    0   42      156.       1    0   74
    35.      2    1   13      90.       3    1   44      157.       1    0   74
    36.      1    0   14      91.       1    0   44      158.       2    1   75
    37.      1    0   14      94.       4    2   46      164.       1    0   75
    39.      1    0   15      95.       3    1   48      167.       1    0   76
    40.      1    0   15      96.       3    1   49      171.       1    0   76
    41.      1    0   16      99.       2    1   50      172.       1    0   77
    44.      1    0   16     100.       1    0   50      177.       1    0   77
    45.      2    1   17     101.       1    0   51      183.       1    0   78
    48.      1    0   17     102.       1    0   51      185.       2    1   79
    49.      2    1   18     103.       1    0   52      189.       1    0   79
    50.      2    1   19     104.       2    1   53      192.       1    0   80
    51.      1    0   20     106.       1    0   53      194.       1    0   80
    53.      1    0   20     107.       1    0   54      200.       1    0   81
    54.      1    0   21     108.       1    0   54      203.       1    0   81
    55.      2    1   22     109.       1    0   55      207.       2    1   82
    56.      1    0   22     110.       1    0   55      209.       1    0   83
    57.      2    1   23     113.       2    1   56      210.       1    0   83
    58.      2    1   24     114.       1    0   57      214.       1    0   83
    61.      2    1   25     115.       1    0   57      215.       1    0   84
    62.      2    1   26     116.       1    0   58      216.       2    1   85
    63.      1    0   26     117.       1    0   58      220.       1    0   85
    64.      2    1   27     118.       2    1   59      222.       1    0   86
    65.      1    0   28     120.       1    0   59      226.       2    1   87
    66.      1    0   28     121.       1    0   60      234.       1    0   87
    68.      1    0   29     122.       4    2   62      239.       1    0   88
    70.      2    1   30     123.       2    1   63      242.       2    1   89
    71.      1    0   30     124.       2    1   64      246.       2    1   90
    74.      2    1   31     125.       2    1   65      251.       1    0   90
    75.      2    1   32     126.       1    0   65      253.       1    0   91
    76.      4    2   34     127.       1    0   66      255.       1    0   91
    77.      2    1   35     128.       2    1   67      265.       1    0   92
    78.      1    0   35     129.       1    0   67      272.       1    0   92
    79.      1    0   36     130.       1    0   67      277.       1    0   92
   305.      1    0   93     385.       1    0   96      766.       1    0   99
   314.      1    0   93     415.       1    0   96      844.       1    0   99
   315.      1    0   94     511.       1    0   97     1419.       1    0  100
   326.      1    0   94     515.       1    0   97     2384.       1    0  100
   346.      1    0   95     517.       1    0   98
   350.      1    0   95     732.       1    0   98

MEAN           145.637      STD ERR       14.813       MEDIAN          99.500
MODE              .000      STD DEV      215.684       VARIANCE     46519.802
KURTOSIS        60.772      SKEWNESS       6.766       RANGE         2384.000
MINIMUM           .000      MAXIMUM     2384.000

VALID CASES        212      MISSING CASES      0
```

TABLE III

MEDIC

MEDICAL EXPENSES FOR CASES TREATED BY A MEDICAL DOCTOR

		ADJ	CUM			ADJ	CUM			ADJ	CUM
CODE	FREQ	PCT	PCT	CODE	FREQ	PCT	PCT	CODE	FREQ	PCT	PCT
0.	25	6	6	51.	1	0	33	97.	3	1	54
5.	1	0	6	52.	2	0	33	98.	1	0	54
7.	1	0	6	53.	3	1	34	100.	1	0	55
8.	2	0	7	54.	2	0	34	101.	1	0	55
10.	8	2	9	55.	1	0	34	103.	1	0	55
11.	2	0	9	57.	1	0	35	104.	2	0	56
12.	3	1	10	58.	3	1	35	105.	1	0	56
14.	3	1	10	59.	2	0	36	106.	1	0	56
15.	5	1	12	60.	2	0	36	107.	3	1	57
16.	1	0	12	61.	3	1	37	108.	2	0	57
17.	4	1	13	62.	2	0	37	109.	2	0	58
18.	5	1	14	64.	2	0	38	110.	1	0	58
19.	5	1	15	65.	2	0	38	111.	3	1	59
20.	5	1	16	66.	4	1	39	112.	2	0	59
21.	1	0	17	67.	2	0	40	113.	1	0	59
22.	2	0	17	69.	1	0	40	114.	1	0	60
23.	2	0	17	70.	3	1	41	115.	2	0	60
24.	3	1	18	71.	3	1	41	116.	1	0	60
25.	3	1	19	72.	1	0	42	117.	1	0	60
26.	5	1	20	73.	1	0	42	118.	1	0	61
28.	2	0	20	74.	2	0	42	121.	1	0	61
30.	6	1	22	75.	2	0	43	123.	2	0	61
31.	3	1	23	76.	3	1	43	124.	1	0	62
32.	2	0	23	77.	4	1	44	126.	2	0	62
33.	1	0	23	78.	1	0	45	127.	1	0	62
34.	3	1	24	79.	2	0	45	128.	1	0	63
35.	3	1	25	80.	6	1	47	132.	1	0	63
36.	2	0	25	81.	4	1	47	135.	1	0	63
37.	1	0	25	82.	3	1	48	137.	2	0	63
38.	3	1	26	83.	1	0	48	138.	1	0	64
39.	2	0	27	85.	1	0	49	139.	4	1	65
40.	3	1	27	86.	2	0	49	140.	3	1	65
41.	2	0	28	87.	1	0	49	142.	2	0	66
42.	5	1	29	88.	1	0	50	143.	1	0	66
43.	5	1	30	90.	4	1	50	146.	1	0	66
45.	5	1	31	91.	1	0	51	149.	1	0	67
46.	1	0	31	92.	2	0	51	150.	2	0	67
47.	1	0	32	93.	1	0	51	151.	1	0	67
48.	1	0	32	94.	2	0	52	153.	1	0	67
49.	1	0	32	95.	3	1	53	156.	1	0	68
50.	1	0	32	96.	4	1	53	157.	2	0	68

TABLE III CONTINUED

```
MEDIC

                  ADJ CUM                     ADJ CUM                       ADJ CUM
CODE       FREQ   PCT PCT    CODE      FREQ   PCT PCT    CODE        FREQ   PCT PCT

158.          1     0  68    281.         1     0  81     857.          1     0  91
159.          1     0  69    292.         1     0  81     858.          1     0  91
160.          1     0  69    296.         1     0  82     939.          1     0  91
162.          2     0  69    302.         2     0  82     947.          1     0  92
165.          2     0  70    304.         1     0  82     955.          1     0  92
167.          1     0  70    307.         1     0  83    1024.          1     0  92
174.          2     0  70    317.         1     0  83    1088.          1     0  92
176.          2     0  71    324.         1     0  83    1113.          1     0  93
178.          2     0  71    326.         1     0  83    1124.          1     0  93
180.          2     0  72    346.         1     0  83    1145.          1     0  93
182.          1     0  72    361.         1     0  84    1187.          1     0  93
183.          1     0  72    362.         1     0  84    1213.          1     0  93
187.          2     0  73    366.         1     0  84    1230.          1     0  94
189.          1     0  73    376.         1     0  84    1250.          1     0  94
190.          1     0  73    384.         1     0  85    1285.          1     0  94
192.          1     0  73    388.         1     0  85    1317.          1     0  94
193.          1     0  74    392.         1     0  85    1361.          1     0  95
200.          2     0  74    394.         1     0  85    1374.          1     0  95
214.          1     0  74    404.         1     0  86    1448.          1     0  95
216.          2     0  75    427.         1     0  86    1503.          1     0  95
218.          1     0  75    429.         1     0  86    1515.          1     0  96
219.          1     0  75    432.         1     0  86    1620.          1     0  96
220.          2     0  76    441.         1     0  87    1667.          1     0  96
222.          1     0  76    442.         1     0  87    1676.          1     0  96
224.          3     1  77    445.         1     0  87    1714.          1     0  97
225.          2     0  77    463.         1     0  87    1792.          1     0  97
231.          1     0  77    464.         1     0  87    1798.          1     0  97
239.          1     0  78    474.         1     0  88    1952.          1     0  97
245.          1     0  78    486.         1     0  88    2000.          1     0  97
246.          1     0  78    494.         1     0  88    2082.          1     0  98
249.          1     0  78    513.         1     0  88    2131.          1     0  98
252.          1     0  79    523.         1     0  89    2137.          1     0  98
255.          1     0  79    526.         1     0  89    2138.          1     0  98
257.          1     0  79    544.         1     0  89    2174.          1     0  99
260.          1     0  79    547.         1     0  89    2294.          1     0  99
266.          2     0  80    558.         1     0  90    2407.          1     0  99
268.          1     0  80    605.         1     0  90    2770.          1     0  99
271.          1     0  80    663.         1     0  90    2787.          1     0 100
274.          1     0  80    668.         1     0  90    3352.          1     0 100
275.          1     0  81    749.         1     0  90    4110.          1     0 100
280.          1     0  81    768.         1     0  91

MEAN          267.581    STD ERR        24.947     MEDIAN        90.000
MODE             .000    STD DEV       517.312     VARIANCE  267611.918
KURTOSIS       15.107    SKEWNESS        3.588     RANGE       4110.000
MINIMUM          .000    MAXIMUM      4110.000

VALID CASES       430    MISSING CASES       0
```

TABLE IV
INDEMNITY AMOUNTS FOR CASES TREATED BY A CHIROPRACTOR

```
INDEM
                  ADJ  CUM                      ADJ  CUM                      ADJ  CUM
  CODE     FREQ   PCT  PCT     CODE     FREQ    PCT  PCT     CODE     FREQ    PCT  PCT

    0.       10     5    5     126.        1      0   38     273.        1      0   63
   12.        1     0    5     135.        1      0   39     277.        1      0   64
   14.        1     0    6     151.        1      0   39     284.        5      2   66
   15.        1     0    6     159.        1      0   40     291.        1      0   67
   16.        1     0    7     160.        1      0   40     294.        1      0   67
   18.        2     1    8     161.        1      0   41     304.        1      0   67
   20.        3     1    9     163.        1      0   41     309.        1      0   68
   21.        3     1   10     165.        1      0   42     315.        4      2   70
   22.        1     0   11     166.        1      0   42     317.        1      0   70
   23.        2     1   12     169.        1      0   42     322.        1      0   71
   24.        1     0   12     173.        1      0   43     332.        1      0   71
   26.        1     0   13     177.        2      1   44     333.        1      0   72
   27.        4     2   15     181.        2      1   45     347.        1      0   72
   28.        1     0   15     182.        1      0   45     351.        1      0   73
   31.        2     1   16     184.        1      0   46     353.        1      0   73
   32.        7     3   19     186.        2      1   47     368.        1      0   74
   33.        2     1   20     192.        1      0   47     372.        1      0   74
   34.        1     0   21     193.        1      0   48     378.        2      1   75
   38.        1     0   21     195.        1      0   48     385.        1      0   75
   39.        1     0   22     200.        1      0   49     387.        1      0   76
   42.        1     0   22     201.        1      0   49     395.        1      0   76
   45.        1     0   23     205.        1      0   50     399.        1      0   77
   48.        1     0   23     206.        1      0   50     406.        1      0   77
   49.        3     1   25     208.        1      0   50     407.        1      0   78
   50.        1     0   25     211.        1      0   51     410.        2      1   79
   52.        2     1   26     218.        1      0   51     423.        1      0   79
   58.        1     0   26     221.        3      1   53     434.        1      0   80
   59.        1     0   27     223.        1      0   53     439.        1      0   80
   61.        1     0   27     228.        1      0   54     441.        1      0   81
   63.        7     3   31     230.        1      0   54     444.        1      0   81
   68.        1     0   31     233.        1      0   55     464.        1      0   82
   72.        1     0   32     235.        1      0   55     473.        2      1   83
   82.        1     0   32     238.        1      0   56     497.        1      0   83
   88.        1     0   33     239.        1      0   56     504.        2      1   84
   89.        1     0   33     245.        2      1   57     530.        1      0   84
   92.        1     0   33     252.        7      3   60     532.        1      0   85
   95.        4     2   35     257.        1      0   61     535.        4      2   87
  103.        1     0   36     260.        1      0   61     560.        1      0   87
  107.        1     0   36     261.        1      0   62     563.        1      0   88
  117.        2     1   37     262.        1      0   62     599.        2      1   89
  120.        1     0   38     267.        1      0   63     616.        1      0   89
  627.        1     0   90     840.        2      1   94    1323.        1      0   98
  630.        2     1   91     846.        1      0   95    1346.        1      0   99
  661.        1     0   91     940.        1      0   95    1457.        1      0   99
  724.        1     0   92     945.        2      1   96    2187.        1      0  100
  729.        1     0   92     946.        1      0   97    2300.        1      0  100
  756.        2     1   93    1071.        1      0   97
  824.        1     0   93    1094.        1      0   98

MEAN          285.915       STD ERR         22.833       MEDIAN          206.500
MODE             .000       STD DEV        332.451       VARIANCE     110523.735
KURTOSIS       11.475       SKEWNESS         2.786       RANGE          2300.000
MINIMUM          .000       MAXIMUM       2300.000

VALID CASES       212       MISSING CASES        0
```

TABLE IV

INDEM INDEMNITY AMOUNTS FOR CASES TREATED BY A MEDICAL DOCTOR

CODE	FREQ	ADJ PCT	CUM PCT	CODE	FREQ	ADJ PCT	CUM PCT	CODE	FREQ	ADJ PCT	CUM PCT
0.	11	3	3	83.	1	0	23	186.	2	0	36
3.	1	0	3	84.	1	0	23	187.	1	0	36
12.	2	0	3	86.	1	0	23	188.	1	0	36
14.	2	0	4	87.	1	0	24	189.	3	1	37
15.	1	0	4	94.	3	1	24	191.	1	0	37
17.	2	0	4	95.	1	0	25	193.	1	0	37
18.	2	0	5	103.	1	0	25	194.	2	0	38
19.	1	0	5	107.	2	0	25	202.	1	0	38
20.	2	0	6	113.	1	0	26	203.	2	0	38
21.	3	1	6	114.	1	0	26	206.	1	0	39
22.	5	1	7	117.	2	0	26	207.	2	0	39
23.	3	1	8	124.	3	1	27	208.	2	0	40
26.	2	0	9	127.	2	0	27	211.	3	1	40
28.	1	0	9	128.	1	0	28	212.	1	0	40
29.	3	1	10	129.	1	0	28	216.	1	0	41
30.	1	0	10	131.	1	0	28	218.	1	0	41
32.	11	3	12	133.	1	0	28	219.	1	0	41
33.	1	0	13	135.	1	0	29	220.	2	0	42
34.	1	0	13	137.	1	0	29	221.	7	2	43
38.	2	0	13	140.	1	0	29	222.	1	0	43
39.	1	0	13	142.	1	0	29	223.	1	0	44
40.	1	0	14	143.	1	0	30	224.	1	0	44
45.	1	0	14	144.	1	0	30	228.	1	0	44
46.	1	0	14	151.	2	0	30	230.	1	0	44
47.	2	0	15	152.	1	0	30	231.	1	0	45
49.	2	0	15	153.	1	0	31	232.	1	0	45
50.	2	0	16	155.	2	0	31	233.	1	0	45
51.	2	0	16	157.	1	0	31	235.	2	0	46
53.	1	0	16	158.	1	0	32	238.	1	0	46
54.	1	0	17	161.	1	0	32	239.	1	0	46
56.	2	0	17	163.	2	0	32	240.	1	0	46
57.	1	0	17	165.	2	0	33	246.	1	0	47
58.	4	1	18	166.	1	0	33	247.	1	0	47
60.	2	0	19	168.	1	0	33	249.	1	0	47
61.	2	0	19	169.	1	0	33	250.	3	1	48
62.	1	0	19	172.	1	0	34	251.	1	0	48
63.	10	2	22	174.	1	0	34	252.	3	1	49
65.	2	0	22	178.	1	0	34	253.	1	0	49
71.	1	0	22	179.	2	0	35	255.	1	0	49
81.	1	0	23	182.	1	0	35	259.	1	0	49
82.	1	0	23	185.	1	0	35	261.	1	0	50

TABLE IV CONTINUED

INDEM

CODE	FREQ	ADJ PCT	CUM PCT	CODE	FREQ	ADJ PCT	CUM PCT	CODE	FREQ	ADJ PCT	CUM PCT
262.	1	0	50	374.	2	0	62	549.	1	0	76
264.	1	0	50	376.	1	0	63	557.	1	0	76
267.	2	0	50	378.	6	1	64	558.	1	0	76
274.	2	0	51	382.	1	0	64	559.	1	0	77
275.	1	0	51	383.	1	0	64	561.	1	0	77
277.	1	0	51	384.	1	0	65	567.	3	1	77
278.	1	0	52	389.	1	0	65	570.	1	0	78
281.	1	0	52	400.	1	0	65	576.	1	0	78
282.	2	0	52	407.	1	0	65	598.	2	0	78
283.	2	0	53	409.	1	0	66	608.	1	0	79
284.	5	1	54	410.	5	1	67	614.	1	0	79
286.	1	0	54	420.	1	0	67	626.	1	0	79
288.	1	0	54	430.	1	0	67	630.	5	1	80
291.	1	0	55	432.	1	0	67	640.	2	0	81
293.	1	0	55	433.	1	0	68	657.	1	0	81
296.	1	0	55	434.	1	0	68	662.	5	1	82
298.	3	1	56	436.	1	0	68	671.	1	0	82
302.	1	0	56	437.	1	0	68	678.	1	0	83
303.	1	0	56	440.	1	0	69	680.	2	0	83
306.	1	0	57	444.	1	0	69	681.	1	0	83
309.	1	0	57	448.	1	0	69	683.	1	0	83
310.	1	0	57	452.	1	0	69	693.	2	0	84
311.	1	0	57	454.	1	0	70	695.	1	0	84
313.	1	0	57	460.	1	0	70	700.	1	0	84
315.	1	0	58	461.	1	0	70	720.	1	0	85
325.	1	0	58	463.	2	0	70	724.	1	0	85
327.	1	0	58	469.	1	0	71	729.	1	0	85
328.	1	0	58	472.	2	0	71	743.	1	0	85
337.	1	0	59	473.	4	1	72	752.	1	0	86
341.	1	0	59	476.	1	0	72	759.	1	0	86
343.	1	0	59	477.	1	0	73	767.	1	0	86
346.	1	0	59	490.	1	0	73	778.	1	0	86
347.	1	0	60	491.	1	0	73	788.	3	1	87
351.	1	0	60	493.	1	0	73	821.	1	0	87
352.	1	0	60	504.	4	1	74	844.	2	0	88
354.	1	0	60	507.	1	0	74	846.	1	0	88
356.	2	0	61	514.	1	0	75	851.	1	0	88
365.	1	0	61	522.	1	0	75	855.	1	0	88
366.	1	0	61	523.	1	0	75	861.	1	0	89
369.	2	0	62	536.	1	0	75	882.	3	1	89
370.	1	0	62	537.	1	0	76	883.	1	0	90

TABLE IV CONTINUED

```
INDEM

                   ADJ  CUM                    ADJ  CUM                    ADJ  CUM
    CODE    FREQ   PCT  PCT      CODE    FREQ  PCT  PCT      CODE    FREQ  PCT  PCT

    896.       1     0   90     1132.       1    0   93     2157.       1    0   97
    909.       1     0   90     1133.       1    0   93     2220.       1    0   97
    914.       1     0   90     1260.       1    0   94     2323.       1    0   97
    918.       1     0   90     1298.       1    0   94     2331.       1    0   97
    939.       1     0   91     1386.       1    0   94     2363.       1    0   98
    979.       1     0   91     1418.       1    0   94     2374.       1    0   98
   1005.       1     0   91     1500.       1    0   95     2507.       1    0   98
   1023.       1     0   91     1506.       1    0   95     2529.       1    0   98
   1047.       1     0   92     1575.       1    0   95     2708.       1    0   99
   1056.       1     0   92     1669.       1    0   95     3030.       1    0   99
   1067.       1     0   92     1679.       1    0   96     3149.       1    0   99
   1071.       1     0   92     1764.       1    0   96     3343.       1    0   99
   1093.       1     0   93     2036.       1    0   96     3434.       1    0  100
   1117.       1     0   93     2079.       1    0   96     3884.       1    0  100
   1123.       1     0   93     2147.       1    0   97     4457.       1    0  100

MEAN          442.740      STD ERR       28.432       MEDIAN        264.500
MODE             .000      STD DEV      589.569       VARIANCE   347591.187
KURTOSIS       13.151      SKEWNESS       3.242       RANGE        4457.000
MINIMUM          .000      MAXIMUM     4457.000

VALID CASES       430      MISSING CASES      0
```

Prepared
Statement of the
AMERICAN CHIROPRACTIC ASSOCIATION
submitted to
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

July 13, 1982

The American Chiropractic Association (the largest professional chiropractic association in the United States) appreciates the opportunity to testify in support of S. 1956, a bill introduced by Senator Strom Thurmond and cosponsored by a number of his colleagues. This bill would amend title 38, United States Code, to authorize reimbursement for reasonable charges for chiropractic services provided to certain veterans. The Veterans Administration's medical care program would be responsible for overseeing this program.

Members of this committee are aware of the contents in S. 1956 because they dealt with similar legislation during the last Congress when the U.S. Senate passed the identical language contained in this bill. This legislation would clarify the authority that the Veterans Administration already has to provide chiropractic services to veterans. Despite this authority very few veterans have been allowed to obtain the assistance of a chiropractor even if a chiropractor is the health care provider of the patient's choice. The V.A. staff's apparent reluctance to refer patients to doctors of chiropractic is not an accurate reflection of what is happening with health care professionals' referrals in the private sector. According to statistics published in Medical Economics, referrals to chiropractors from physicians have more than doubled from 1975 to 1981.

The Congress, in its Conference Report of H.R. 3892 during the 96th Congress, urged the V.A. to re-examine its policies regarding chiropractic. Frankly the American Chiropractic Association, on behalf of chiropractic patients who are veterans, believes that chiropractic care should be available to all the veterans as is the case in the private sector. Doctors of chiropractic are primary health care providers who are the portal of entry to health care for many.

The bill before this committee today will allow veterans suffering from neuromusculoskeletal conditions to seek care from a chiropractor. Veterans today have the option of visiting an M.D. (ophthalmologist) or an optometrist, an M.D. or a podiatrist; this legislation simply provides another option. These are not "add-on" services but alternative services.

Chiropractors are licensed in all 50 states like other health care providers. The U.S. Department of Education recognizes the Council on Chiropractic Education as the official accrediting body for the chiropractic profession. This recognition is similar to the recognition provided to other health care professions such as medicine and dentistry.

Chiropractic health care has been found to be cost-effective. As the committee is aware from previous testimony, numerous studies of state worker compensation records have been conducted which prove that chiropractic care can provide dramatic savings in time and money. The case studies found that chiropractic patients were returned to the work force faster and at less cost than medical patients.

S. 1956 would bring the Veterans Administration's policy in line with other programs in Federal and state agencies. Chiropractic services are covered under Medicare, Medicaid, Federal employees health benefit plans, Worker's Compensation, Longshoremen and Harbor Workers' Act and vocational rehabilitation, and is considered a medical deduction under IRS. Veterans can attend chiropractic colleges under the GI bill. Chiropractic students may be eligible for special loans under the Federal Health Manpower Act. Not only is the Veterans Administration's hesitancy to promote chiropractic inconsistent with other U.S. policy but also, the 30% of ACA's members who attended chiropractic college under the GI bill are not even able to treat their fellow veterans. The V.A. utilizes other health care providers such as optometrists, podiatrists and many medical specialists. Certainly on grounds of equity alone the ACA could support S. 1956, the bill which authorizes reimbursement for reasonable charges for chiropractic services provided to certain veterans.

The proposed bill would establish a pilot program to promote the use of chiropractic services within the V.A. There is a $4 million limit for total expenditures for chiropractic services in any fiscal year, and the program will expire on September 30, 1985 if it is not renewed. It also limits the number of veterans who are eligible for its benefits. This type of program would offer the V.A. an ideal opportunity to learn the values of chiropractic services. Incorporating chiropractic into the V.A.'s medical care program would also begin to offer veterans the same options in health care they could receive in the private sector - a choice they certainly deserve.

Veterans, the group of individuals the V.A. was founded to serve, are strongly requesting chiropractic services. A number of veterans organizations including the Veterans of Foreign Wars, the Military Order of the Purple Heart, Disabled Officers Association and the Disabled American Veterans have voiced their strong support in favor of chiropractic inclusion in V.A. health programs.

Our veterans are being denied one of the types of freedom for which they fought: the freedom of choice of health care. Today chiropractic is an integral part of the American health delivery system, and its absence is a serious and unjust omission.

The Veterans Administration has the extremely challenging task of caring for the nation's veterans. It is a large institution with many demands placed upon it. One of the marks of a great institution is the ability to be adept and recognize growth and advancements within its field. The chiropractic profession has established itself as an important partner in the health industry. It has grown into that role by adhering to the profession's goal of higher educational standards, stricter admission standards in its schools, and becoming a leader among professional groups in requiring continuing educational courses for relicensure each year. Chiropractors are dedicated to providing quality health care, and quality health care for veterans is certainly a goal of the V.A. With this thought in mind the ACA urges this committee to adopt this bill and move for its passage before the full United States Senate.

The ACA would like to extend its appreciation to the Senate Veterans' Affairs Committee for the opportunity to submit this testimony. We would also like to thank those members who have co-sponsored bill S. 1956.

VETERANS' EDUCATION AND EMPLOYMENT AMENDMENTS OF 1982

WEDNESDAY, JULY 28, 1982

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 9:35 a.m., in room 412, Russell Office Building, Hon. Alan K. Simpson (chairman of the committee) presiding.

Present: Chairman Alan K. Simpson, Senators Strom Thurmond, Alan Cranston, and George J. Mitchell.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Chairman SIMPSON. Good morning. We will proceed. I welcome you this morning to the legislative hearing on proposed adjustments to improve the educational and vocational rehabilitation and employment programs administered by the Veterans' Administration and by the Department of Labor.

We are here to receive testimony on a bill which I introduced, S. 2747, entitled the proposed "Education and Employment Amendments of 1982" and on amendment No. 1984. This proposed legislation was cosponsored by Al Cranston, our committee's most capable ranking member.

The witnesses today are from the Veterans' Administration, the Department of Defense, the Congressional Budget Office, and several veterans' service organizations.

The bill and the amendment being discussed today have been drafted in an attempt to respond to concerns expressed by some of the witnesses who are here. For example, in the Department of Labor there is a program to provide "outreach" for disabled veterans, a program which most would agree is worthy and working well, but which would be improved if it had, perhaps, its own line item appropriation in the budget. We have not included language to address this problem in our bill since we have had conflicting accounts regarding the most appropriate way to accomplish that without increasing the risk of targeting this program for specific reductions in appropriations. I shall continue to solicit your thoughts and suggestions on this subject.

Another area in the Veterans' Employment Service where concerns have been voiced involves the question of a 2-year residency requirement for appointment as a State Director for Veterans' Employment. We do understand the need to select a person who is fully knowledgeable about local employment conditions, but we also wish to allow some career mobility for Assistant State Directors and flexibility for the Assistant Secretary for Veterans' Employment, known as the "ASVE."

If a qualified State resident is not available then we must demonstrate flexibility by looking into that, trying to ensure that a career person can be selected who can still preserve that local aspect.

The possible solution arrived at in the legislation before us has evolved gradually and it may need even further refinement.

Also, there is language in the bill designed to assist the Department of Defense in avoiding the loss of skilled careerists who might now be encouraged to leave the service in order to take advantage of their GI bill educational benefits before the time of the 1989 expiration date.

While I am sure we all believe in creating incentives for good people to stay in the military we are still searching for a consensus on how best to provide those incentives. And the Congressional Budget Office will present testimony which may provide some insights into this area.

The provisions of amendment No. 1984, sponsored by Senator Cranston, may be as controversial as some that I have mentioned in the proposed bill itself. I have cosponsored both of the provisions because I feel there is an ultimate benefit for veterans who remain unemployed or underskilled. Nevertheless, we still grapple with the best way to implement a liberalization of the regulations concerning the targeted delimiting date extension, and to allow recovered alcoholics and drug abusers to make use of their educational and vocational rehabilitation benefits.

So, we do wish to work together in our effort to improve this legislation before the August 19 markup. We welcome the prospect that the valued participation of each of the witnesses today will bring us closer to that goal. And with all of that, I still ask that you keep your oral statements to the customary 5 minutes.

How about that? It's fair enough, isn't it? Of course it is.

The text of bills S. 2380, S. 2747, amendment No. 1984, agency reports, and related statements thereon will be inserted in the record at this point.

[The text of bills S. 2380, S. 2747, amendment No. 1984, agency reports, and related statements thereon follow:]

II

97TH CONGRESS
2D SESSION

S. 2380

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15 (legislative day, APRIL 13), 1982

Mr. SIMPSON (by request) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Rehabilitation and Education Adjustment Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

SEC. 101. Section 1508 is amended by—

(1) amending subsection (b) to read as follows:

"(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II opposite the appropriate type of program being pursued as specified in column I:

"Column I Type of program	Column II Monthly amount
Institutional training:	
Full time	$282
Three-quarter time	212
Halftime	141
Farm cooperative, apprentice, or other on-job training:	
Full time	246
Extended evaluation:	
Full time	282
Independent living, training:	
Full time	282
Three-quarter time	212
Halftime	141";

and

(2) amending subsection (g) to read as follows:

"(g) No subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program while incarcerated in a Federal, State, or local penal institution for conviction of a felony.".

TITLE II—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

SEC. 201. Section 242 is amended by adding at the end thereof the following new subsection:

"(c) The Administrator may establish veterans benefits counselors at locations such as school campuses to provide assistance regarding benefits under this title to veterans and eligible persons and to conduct outreach as provided for under this subchapter.".

SEC. 202. (a) Section 243 is repealed.

(b) The table of sections at the beginning of chapter 3 is amended by striking out

"243. Veterans' representatives.".

SEC. 203. Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

SEC. 204. Section 1673(a) is amended by—

(1) striking out "(1)" before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section) to read as follows:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

SEC. 205. Section 1673(d) is amended by inserting immediately after the first sentence the following: "Notwithstanding the above, veterans described in section 1691(c) of this title pursuing secondary school courses will be subject to the 85 per centum restriction.".

SEC. 206. Section 1682 is amended by—

(1) amending the second sentence of subsection (e) by striking out "at one-half of the full-time institutional rate" and inserting in lieu thereof "in accordance with the rate of pursuit but in no event more than the less than half-time rate"; and

(2) amending subsection (g) to read as follows:

"(g) The amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser. Except for payment for necessary books, supplies, and equipment required of similarly circumstanced nonveterans, no benefits shall be payable for any course for which there are no tuition or fees.".

SEC. 207. Section 1723(a) is amended by—

(1) striking out "(1)" before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section) to read as follows:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

SEC. 208. Section 1780(a) is amended by striking out clause (6).

SEC. 209. Section 1790(b)(2) of title 38, United States Code, is amended by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding the evidence required to discontinue educational assistance to an individual eligible veteran or eligible person under paragraph (2) of this subsection, the

Administrator may discontinue such assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment of any eligible veteran or eligible person, in any course where the Administrator finds that (A) the course fails to meet any of the approval requirements of this chapter or (B) the educational institution offering the course has violated the recordkeeping or reporting requirements of this chapter or chapter 31, 32, 34, or 35 of this title and, having been advised of such violation(s), has failed to take reasonable corrective action. Whenever the Administrator so discontinues such assistance, the Administrator shall give notice as required under paragraph (2) of this subsection.".

SEC. 210. Section 1798(e)(3) is amended to read as follows:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such reports shall include—

"(A) data regarding the cumulative default experience, and the default experience during the preceding year, with respect to such loans; and

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) loans made under this section.".

TITLE III—REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

SEC. 301. Section 1631(c) is repealed.

SEC. 302. Section 1652(c) is amended by striking out "correspondence school,".

SEC. 303. Section 1681(b) is amended by striking out ", a program exclusively by correspondence or".

SEC. 304. Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

SEC. 305. Section 1701(a)(6) is amended by striking out "correspondence school,".

SEC. 306. Section 1734 is amended by—

(1) striking out subsection (b) thereof;

(2) striking out "(a)"; and

(3) amending the catchline at the beginning thereof to read as follows:

"§ 1734. Apprenticeship or other on-job training".

SEC. 307. Section 1780 is amended by—

(1) striking out in subsection (a) ", a program by correspondence or";

(2) striking out clause (5) of subsection (a);

(3) inserting "or" at the end of clause (3) of subsection (a);

(4) striking out the semicolon at the end of clause (4) and inserting in lieu thereof a period;

(5) repealing subsection (b) and the center heading which immediately precedes such subsection;

(6) redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively;

(7) striking out in subsection (d) (as redesignated by clause (6) of this section) "(d)" and inserting in lieu thereof "(c)"; and

(8) striking out in subsection (e) (as redesignated by clause (6) of this section) "(d)" and inserting in lieu thereof "(c)".

SEC. 308. Section 1784 is amended by—

(1) striking out in subsection (a) ", or, in the case of correspondence training, the last date a lesson was serviced by the school"; and

(2) striking out in subsection (c) "(d)" and inserting in lieu thereof "(c)".

SEC. 309. Section 1786 is repealed.

SEC. 310. Section 1798(c) is amended by striking out "correspondence or".

SEC. 311. The table of sections at the beginning of chapter 34 is amended by—

(1) striking out

"1684. Apprenticeship or other on-job training, correspondence courses.";

and

(2) inserting in lieu thereof

"1684. Apprenticeship or other on-job training.".

SEC. 312. The table of sections at the beginning of chapter 35 is amended by—

(1) striking out

"1734. Apprenticeship or other on-job training, correspondence courses.";

and

(2) inserting in lieu thereof

"1734. Apprenticeship or other on-job training.".

SEC. 313. The table of sections at the beginning of chapter 36 is amended by striking out

"1786. Correspondence courses.".

SEC. 314. Section 604(a) of the Act of October 24, 1972, entitled the "Vietnam Era Veterans' Readjustment Assistance Act of 1972" (86 Stat. 1099) as amended by section 3 of the Act of July 10, 1974, entitled "An Act to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows" (88 Stat. 292), is amended by striking out the following: "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

TITLE IV—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 401. Section 3102(a) is amended by striking out "two years" and inserting in lieu thereof "one hundred and eighty days".

SEC. 402. The amendments made by sections 101(1), 204, and 207, and title III shall become effective on October 1, 1982.

[No. 59]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

February 22, 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill entitled the "Veterans' Rehabilitation and Education Adjustment Act of 1982," which I request be introduced and promptly enacted. Also enclosed is a section-by-section analysis of the measure.

The proposals being made are, with three exceptions, relatively minor program revisions, which, in many cases, result from the enactment of Public Law 96-466 in October 1980 and Public Laws 97-35 and 97-72 in 1981. The three exceptions are the discontinuance of additional chapter 31 subsistence allowances for dependents, repeal of the 50 percent employment reporting requirement in our vocational education program, and elimination of VA authority to provide educational assistance benefits for the pursuit of correspondence training.

The Veterans Administration is proposing to discontinue payment of additional vocational rehabilitation subsistence allowances on behalf of dependents. Title 38, United States Code, now provides that service-connected disabled veterans whose disability ratings are 30 percent or more shall receive additional disability compensation for dependents. This same group of veterans also receives an added chapter 31 allowance for dependents. Until 1978, these dependents' allowances were paid only to those veterans with disability ratings of 50 percent or more. Veterans whose disabilities are rated at less than 50 percent are likely to be fully employed and in a position to provide for their families without added Federal Government aid. Accordingly, the Veterans Administration is proposing in other legislation that additional disability compensation benefits for dependents be provided only to veterans with disability ratings of 50 percent or more. Moreover, the added chapter 31 allowance for dependents constitutes a duplication of assistance, since the same veterans are already receiving disability compensation dependents' allowances. This proposal would eliminate that duplication by discontinuing the chapter 31 allowances.

The second major amendment included in the draft proposal calls for repeal of the requirement that vocational schools report on the numbers of graduates who, during the preceding 2-year period, have obtained employment in the field for which the school has provided training.

The so-called "50 percent employment rule" was established with the enactment of Public Law 93-508 in 1974. The purpose of the rule was to prevent and mitigate against abuses of the VA's education programs by requiring schools to show that the vocational objective courses they offer can demonstrate a 50 percent placement record over the preceding 2-year period.

At the time the 50 percent employment rule was enacted, there were over 600,000 veterans enrolled in vocational training. This compares with approximately 65,000 veterans currently enrolled in such training. In addition, enrollments of veterans in vocational training will continue to diminish substantially in the year ahead.

It should be pointed out that vocational schools have begun to exercise a greater role in employment planning for students who take these types of courses and in the utilization of the training to match employment needs. The latest statistics available to the Veterans Administration disclose that, as of last Spring, there were approximately 22,000 courses on which reports had to be filed. Of this total, only about 3 percent of these courses were being disapproved for failure to meet the 50 percent employment requirement. The preparation and filing of these reports is very costly, necessitating approximately 324 man-years of effort on the part of schools each year to meet these requirements.

As mentioned above, the requirement was initially established to prevent abuses in vocational training programs which had become apparent to the Veterans Administration. At the time the requirement was first implemented, about 25 percent of the courses being reported on were disapproved for failure to meet the employment criteria, compared to the most recent rate of 3 percent. Thus, the requirement has had the salutary effect of making schools aware of the need to provide requisite training to meet employment needs. We believe that the requirement has now served its basic purpose.

The third major amendment to current law contained in the draft proposal would terminate authority to provide VA educational assistance for the pursuit of correspondence training.

In enacting all three GI Bill programs--World War II, Korean conflict, and post-Korean conflict--the Congress intended that the educational assistance provided would be a readjustment benefit designed to (a) extend the benefits of a higher education to qualified and deserving persons who might otherwise be unable to afford such an education; (b) provide vocational readjustment and restore lost educational opportunities to those individuals whose careers had been interrupted by military service; and (c) aid such individuals to attain the educational and vocational status they would have attained but for their service to their country. Benefits for pursuit of training programs, such as correspondence training, were designed to assist individuals to obtain necessary skills and enable them to find employment.

It is the position of the Veterans Administration that the correspondence training program has not met the objective of providing substantial employment for those trained, and that many individuals have used this program primarily for recreational or avocational purposes. This position is supported by three studies made in recent years concerning this program which are fully discussed in the section-by-section analysis.

In summary, our years of experience in administering education programs for veterans and other eligible persons convince us that correspondence courses have not fulfilled their intended purpose of aiding the beneficiary to adjust to his or her changed circumstances by providing the training required for employment. It is our conclusion that the ineffectiveness of this program, along with the potential for continued misuse, warrants its termination.

The other proposals we have included in the draft measure are set forth in detail in the enclosed section-by-section analysis.

Briefly, I am recommending repeal of the authority for the Veterans' Representatives (Vet Rep) program (section 202). I am also recommending several amendments to various sections in title 38 pertaining to payment of educational benefits to incarcerated persons (sections 101, 206, and 208), as well as modifications to the VA education loan default report (section 210), and reduction of the period for requesting waiver of recovery of VA overpayments (section 401).

It is estimated that enactment of this proposal would result in direct benefits savings in Fiscal Year 1983 of $25.3 million and $113 million over the first 5 fiscal years. Enactment would also result in estimated administrative savings of $223,000 in Fiscal Year 1983 and $1,135,000 over the first 5 fiscal years. These estimates are reflected in the President's Fiscal Year 1983 Budget transmitted to the Congress on February 8, 1982.

I have been advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

Chuck Hagel
Deputy Administrator
ROBERT P. NIMMO
Administrator

Enclosures

A BILL

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Rehabilitation and Education Adjustment Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I -- REHABILITATION AMENDMENTS

SEC. 101. Section 1508 is amended by --

(1) amending subsection (b) to read as follows:

"(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II opposite the appropriate type of program being pursued as specified in column I:

"Column I Type of program	Column II Monthly amount
Institutional training:	
Full-time	$282
Three-quarter-time	$212
Half-time	$141
Farm cooperative, apprentice, or other on-job training:	
Full-time	$246
Extended evaluation:	
Full-time	$282
Independent living training:	
Full-time	$282
Three-quarter-time	$212
Half-time	$141";

and

(2) amending subsection (g) to read as follows:

"(g) No subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program while incarcerated in a Federal, State, or local penal institution for conviction of a felony.".

TITLE II -- EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

SEC. 201. Section 242 is amended by adding at the end thereof the following new subsection:

"(c) The Administrator may establish veterans benefits counselors at locations such as school campuses to provide assistance regarding benefits under this title to veterans and eligible persons and to conduct outreach as provided for under this subchapter.".

SEC. 202(a). Section 243 is repealed.

(b) The table of sections at the beginning of chapter 3 is amended by striking out

"243. Veterans' representatives.".

SEC. 203. Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

SEC. 204. Section 1673(a) is amended by --

(1) striking out "(1)" before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section) to read as follows:

> "(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

SEC. 205. Section 1673(d) is amended by inserting immediately after the first sentence the following:

> "Notwithstanding the above, veterans described in section 1691(c) of this title pursuing secondary school courses will be subject to the 85 percent restriction.".

SEC. 206. Section 1682 is amended by --

(1) amending the second sentence of subsection (e) by striking out "at one-half of the full-time institutional

rate" and inserting in lieu thereof "in accordance with the rate of pursuit but in no event more than the less than half-time rate"; and

(2) amending subsection (g) to read as follows:

"(g) The amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser. Except for payment for necessary books, supplies, and equipment required of similarly circumstanced nonveterans, no benefits shall be payable for any course for which there are no tuition or fees.".

SEC. 207. Section 1723(a) is amended by --

(1) striking out "(1)" before "The";

(2) repealing paragraph (2) in its entirety;

(3) redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) amending clause (2) (as redesignated by clause (3) of this section) to read as follows:

> "(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

SEC. 208. Section 1780(a) is amended by striking out clause (6).

SEC. 209. Section 1790(b)(2) of title 38, United States Code, is amended by adding at the end thereof a new paragraph (3) to read as follows:

> "(3) Notwithstanding the evidence required to discontinue educational assistance to an individual eligible veteran or eligible person under paragraph (2) of this subsection, the Administrator may discontinue such assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment

of any eligible veteran or eligible person, in any course where the Administrator finds that (A) the course fails to meet any of the approval requirements of this chapter or (B) the educational institution offering the course has violated the recordkeeping or reporting requirements of this chapter or chapter 31, 32, 34, or 35 of this title and, having been advised of such violation(s), has failed to take reasonable corrective action. Whenever the Administrator so discontinues such assistance, the Administrator shall give notice as required under paragraph (2) of this subsection.".

SEC. 210. Section 1798(e)(3) is amended to read as follows:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such reports shall include --

"(A) data regarding the cumulative default experience, and the default experience during the preceding year, with respect to such loans; and

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) loans made under this section.".

TITLE III -- REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

SEC. 301. Section 1631(c) is repealed.

SEC. 302. Section 1652(c) is amended by striking out "correspondence school,".

SEC. 303. Section 1681(b) is amended by striking out ", a program exclusively by correspondence or".

SEC. 304. Section 1684 is amended to read as follows:

"1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

SEC. 305. Section 1701(a)(6) is amended by striking out "correspondence school,".

SEC. 306. Section 1734 is amended by --

(1) striking out subsection (b) thereof;

(2) striking out "(a)"; and

(3) amending the catch line at the beginning thereof to read as follows:

"1734. Apprenticeship or other on-job training".

SEC. 307. Section 1780 is amended by --

(1) striking out in subsection (a) ", a program by correspondence or";

(2) striking out clause (5) of subsection (a);

(3) inserting "or" at the end of clause (3) of subsection (a);

(4) striking out the semicolon at the end of clause (4) and inserting in lieu thereof a period;

(5) repealing subsection (b) and the center heading which immediately precedes such subsection;

(6) redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively;

(7) striking out in subsection (d) (as redesignated by clause (6) of this section) "(d)" and inserting in lieu thereof "(c)"; and

(8) striking out in subsection (e) (as redesignated by clause (6) of this section) "(d)" and inserting in lieu thereof "(c)".

SEC. 308. Section 1784 is amended by --

(1) striking out in subsection (a) ", or, in the case of correspondence training, the last date a lesson was serviced by the school"; and

(2) striking out in subsection (c) "(d)" and inserting in lieu thereof "(c)".

SEC. 309. Section 1786 is repealed.

SEC. 310. Section 1798(c) is amended by striking out "correspondence or".

SEC. 311. The table of sections at the beginning of chapter 34 is amended by --

(1) striking out

"1684. Apprenticeship or other on-job training, correspondence courses.";

and

(2) inserting in lieu thereof

"1684. Apprenticeship or other on-job training.".

SEC. 312. The table of sections at the beginning of chapter 35 is amended by --

(1) striking out

"1734. Apprenticeship or other on-job training, correspondence courses.";

and

(2) inserting in lieu thereof

"1734. Apprenticeship or other on-job training.".

SEC. 313. The table of sections at the beginning of chapter 36 is amended by striking out

"1786. Correspondence courses.".

SEC. 314. Section 604(a) of the Act of October 24, 1972, entitled the "Vietnam Era Veterans' Readjustment Assistance Act of 1972" (86 Stat. 1099) as amended by section 3 of the Act of July 10, 1974, entitled "An Act to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows" (88 Stat. 292), is amended by striking out the following: "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

TITLE IV -- MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 401. Section 3102(a) is amended by striking out "two years" and inserting in lieu thereof "180 days".

SEC. 402. The amendments made by sections 101(1), 204 and 207, and Title III shall become effective on October 1, 1982.

SECTION-BY-SECTION ANALYSIS OF DRAFT PROPOSAL

Section 1

Subsection (a) provides that the draft proposal may be cited as the "Veterans' Rehabilitation and Education Adjustment Act of 1982."

Subsection (b) provides that whenever in the proposal an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, unless otherwise specified.

TITLE I -- REHABILITATION AMENDMENTS

Section 101

This section of the draft proposal has two basic purposes. The first purpose is to eliminate the authority for the Administrator to pay added subsistence allowance benefits on account of dependents to veterans pursuing vocational rehabilitation programs under chapter 31. Title 38, United States Code, now provides that service-connected disabled veterans whose disability ratings are 30 percent or more shall receive additional disability compensation for dependents. This same group of veterans also receives an added chapter 31 allowance for dependents. Until 1978, these dependents' allowances were paid only to those veterans with disability ratings of 50 percent or more. Veterans whose disabilities are rated at less than 50 percent are likely to be fully employed and in a position to provide for their families without added Federal Government aid. Accordingly, the Veterans Administration is proposing in other legislation that additional disability compensation benefits for dependents be provided only to veterans with disability ratings of 50 percent or more. Moreover, the added chapter 31 allowance for dependents constitutes a duplication of assistance, since the same veterans are already receiving disability compensation dependents' allowances. This proposal would eliminate that duplication by discontinuing the chapter 31 allowances.

The second purpose of section 101 is to amend 38 U.S.C. § 1508(g) to eliminate the requirement that the Administrator verify the amount of an individual's living expenses where the individual is residing in a halfway house or participating in a work-release program in connection with the individual's conviction of a felony. Under current law, the Administrator may not pay subsistence allowance where all of the living expenses are being defrayed by a Federal, State, or local government. The VA's experience has been that verification of the amount of the defrayment of an individual's living expenses under such circumstances has been most difficult and time-consuming and therefore has not been cost effective. The change proposed to be made here would be to eliminate such a determination and permit payment of the allowance to such individuals as a part of their readjustment process.

TITLE II -- EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Section 201

This section of the draft proposal, along with the following section, would rescind the authority for the Veterans' Representatives (Vet Rep) program contained in section 243 of title 38, and would amend section 242 to specifically authorize the Administrator to station veterans benefits counselors at locations away from the VA regional office.

The original purpose of the Veterans' Representatives (Vet Rep) program was to alleviate problems in the educational assistance payment system which caused long delays in the receipt (or nonreceipt) of benefit checks for many veterans. The Vet Reps were to establish lines of communication in an effort to correct the problem. They were to be present full time on school campuses with large enrollments of veterans and eligible dependents. This, of course, was during a period when enrollments in the current veteran education program were at their peak.

With the passage of time and the change in the payment provisions, as well as the reduction in enrollments of veterans and dependents, the original need for the Vet Rep program has been fulfilled. Veterans Benefits Counselors currently perform the variety of duties which were previously accomplished by Vet Reps, and as a result the special authority is no longer required.

Section 202

This section would strike out 38 U.S.C. § 243, thereby terminating the authority for the Vet Rep program, and would also amend the table of sections at the beginning of chapter 3 to delete the reference to section 243.

Section 203

This section of the bill would amend section 1652(b) of title 38 to merely cite a new cross reference to the Small Business Act. The current provisions are outdated in that the statutory citation is now found in section 7(i) of the Small Business Act [15 U.S.C. § 636(i)] rather than section 402(a) of the Economic Opportunity Act of 1964. This change would update the Code.

Section 204

This section would amend section 1673(a)(2) of title 38 to repeal the requirement that vocational schools report on the numbers of graduates who, during the preceding 2-year period, have obtained employment in the field for which the school has provided training.

The current requirement was enacted in 1974 in conjunction with Public Law 93-508. The purpose of the amendment was to prevent and mitigate against abuses of the Veterans Administration's education programs by requiring schools to show that vocational objective courses they offered could demonstrate a 50 percent placement record over the preceding 2-year period.

At the time this provision was enacted, there were over 600,000 veterans enrolled in vocational training. This compares with approximately 65,000 veterans enrolled in such training at the present time. Enrollments of veterans in vocational training has and will continue to decrease substantially.

It should be pointed out that vocational schools have begun to exercise a greater role in employment planning for students taking these types of courses and in the utilization of the training to match employment needs. The latest statistics available to the Veterans Administration disclose that last Spring there were approximately 22,000 courses on which reports had to be filed. Of this total, only about 3 percent of these courses were being disapproved for failure to meet the 50 percent employment requirement. The preparation and filing of these reports are very costly, necessitating approximately 324 man-years of effort on the part of schools each year to meet these requirements.

Initially, this requirement was needed to prevent abuses which had become apparent to the Veterans Administration. At the time the requirement was first implemented, approximately 25 percent of the courses being reported on were disapproved for failure to meet the employment criteria, compared to the most recent rate of 3 percent. Thus, the requirement has had the salutary effect of making schools aware of the need to provide requisite training to meet employment needs. The requirement, therefore, has served its basic purpose.

Section 205

This section would amend 38 U.S.C. § 1673(d) to clarify that educationally disadvantaged servicepersons pursuing high school completion or GED courses without charge to entitlement are subject to the 85-15 veteran-dependent enrollment requirement under which no more than 85 percent of the individuals enrolled in a course may be veterans and dependents receiving VA benefits. This would apply even where the courses are offered on or near a military base and are otherwise exempt from the 85-15 requirement.

Currently, 38 U.S.C. § 1673(d) does not provide that these servicepersons are to be included in the 85-15 requirement. Moreover, that section specifically exempts from this requirement those courses offered under Department of Defense contract and given on or adjacent to a military base.

In enacting Public Law 96-466, however, the Congress amended 38 U.S.C. § 1691 to provide that educationally disadvantaged servicepersons pursuing high school or GED courses without charge to entitlement are subject to the

85-15 requirement. However, a comparable provision was not included in section 1673(d). Therefore, this technical amendment to that section is proposed to have it conform with other provisions of title 38.

Section 206

This section would amend section 1682 of title 38 in two respects.

Clause (1) would amend subsection (e) to prescribe a more appropriate entitlement charge for the pursuit of independent study where the entire program is pursued in that mode. In the enactment of Public Law 96-466, the Congress provided that such pursuit would be charged at one-half the full-time rate. It is believed the appropriate entitlement charge should be at the rate of pursuit, but not more than the less than half-time rate. This would comport with the procedure being followed by the VA prior to the law change--a result we believe the Congress intended. Under the proposed change, the individual would be paid and charged entitlement based upon the rate of pursuit, limited to the less than half-time rate for this type of study.

Clause (2) would amend subsection (g) to reflect the same limitation on payment of educational assistance as is provided in the amendment to 38 U.S.C. § 1508(g). (See Section 101 above.) Additionally, clause (2) would clarify that, in cases where the incarcerated veteran is not charged tuition or fees for his or her course, no chapter 34 benefits shall be payable, except for necessary books, supplies, and equipment required for the course.

Section 207

This section would amend section 1723(a)(2) of title 38 to repeal the requirement in chapter 35 that vocational schools report on the numbers of graduates who, during the preceding 2-year period, have obtained employment in the field for which the school provided training.

The basis for the change recommended here is the same as that set forth in section 204 of the draft bill.

Section 208

This section would amend section 1780(a) by deleting clause (6) thereof. This proposal would modify the present provisions of law which limit the payment of educational assistance allowances to individuals who are incarcerated in Federal, State, county, or local prisons or jails. It would provide that those individuals incarcerated as the result of a conviction would have their educational benefits limited to the cost of tuition, fees, books, supplies and necessary equipment charged similarly circumstanced nonveterans.

In the enactment of Public Law 96-466, the Congress imposed what amounted to two sets of rules to govern the payment of educational assistance benefits to incarcerated veterans and dependents. The first set applied to those individuals convicted of a felony which resulted in their incarceration. Such individuals were limited to the cost of their tuition and fees charged other similarly circumstanced nonveterans, plus the cost of necessary supplies, books and equipment, or the full-time institutional single veteran rate, whichever is lesser. Where such an individual is placed in a work-release program or halfway house, the same rule would apply if all the veterans's or dependent's living expenses are defrayed by a Federal, State, or local government.

The second set of rules was made applicable to all incarcerated veterans and dependents, whether convicted of a felony or a misdemeanor. Under the second set, no educational assistance allowances are to be paid to any veteran incarcerated in a Federal, State, or local prison or jail to the extent that the tuition and fees of such an individual are paid under any Federal, State, or local program (other than the VA) or where there are no tuition and fees. Needless to say, this has created many administrative problems in making determinations concerning the type of conviction as well as making determinations as to the amount of any payments which may be made by some other governmental unit.

Section 209

This section would amend section 1790(b) of title 38 to add a new paragraph (3) authorizing the Administrator to discontinue all educational assistance for enrollments in a course or educational institution which the Administrator finds is in serious violation of fundamental statutory approval, or record-keeping or reporting requirements. Currently, where a course fails to meet such requirements, payments to eligible veterans and persons continue until remedial action, such as withdrawal of approval, is effected or until evidence of non-entitlement is acquired in each individual case. Such payments may be unduly prolonged for various reasons outside the Administrator's control. This proposal would permit the Administrator to minimize or prevent overpayments by discontinuing educational assistance where the Administrator has evidence that a course fails to meet approval requirements or where the record-keeping or reporting practices of an educational institution cannot be relied upon as a basis for continued payment of educational allowances. The veteran or dependent would be afforded the same concurrent written notice of discontinuance as is now provided in paragraph (2).

Section 210

This section would amend section 1798(e)(3) to eliminate the requirement that the Administrator report to Congress on the education loan default rate on a school-by-school basis. Compiling these statistics in such detail has proved to be administratively costly and we are unaware of any inquiry being made concerning, or any other use being made of, these individual school statistics. In the enactment of Public Law 97-35, the Omnibus Reconciliation Act of 1981, the number of education loans which may be made has been drastically reduced. Over a short period of time, even this small number of loans will be phased out.

This reduces the need for the report to be made in the detail now required.

TITLE III -- REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

Sections 301 through 314 would strike out all reference to correspondence training contained in chapters 32, 34, 35, and 36 of title 38. These deletions would have the effect of eliminating authority for the VA to provide educational assistance to eligible veterans and other eligible persons for the pursuit of correspondence training.

In enacting all three GI Bill programs--World War II, Korean conflict, and post-Korean conflict--the Congress intended that the educational assistance provided would be a readjustment benefit designed to (a) extend the benefits of a higher education to qualified and deserving persons who might otherwise be unable to afford such an education; (b) provide vocational readjustment and restore lost educational opportunities to those individuals whose careers had been interrupted by military service; and (c) aid such individuals to attain the educational and vocational status they would have attained but for their service to their country. Benefits for pursuit of training programs, such as correspondence training, were designed to assist individuals to obtain necessary skills and enable them to find employment.

It is the position of the Veterans Administration that the correspondence training program has not met the objective of providing substantial employment for those trained, and that many individuals have used this program primarily for recreational or avocational purposes. This position is supported by three studies made in recent years concerning this program.

In March 1979 the General Accounting Office surveyed a representative sample of veterans who had completed correspondence courses to determine whether their full-time occupations were related to the training they had received under the GI Bill. The August 1979 GAO report showed that only about 34 percent of those who completed correspondence training had full-time jobs directly related to their training and that the overall completion rate for correspondence training courses was less than 50 percent.

A second audit of the utilization of educational assistance benefits for pursuit of correspondence courses was conducted between November 1978 and March 1979 by the VA Inspector General. In his September 1979 report, the VA Inspector General stated that a survey of veterans who had completed correspondence courses disclosed that less than half were directly employed in the field for which they trained.

Thus, these two studies substantiated the findings of the July 11, 1978, report the Veterans Administration sent to the Congress entitled, "Study of Vocational Objective Programs Approved for Enrollment of Veterans." That report contained data which revealed that the correspondence training program was not achieving its intended purpose--to help provide a source of continuing substantial employment for veterans and dependents. The report noted that completion statistics for correspondence courses indicated an average completion rate for vocational courses offered by correspondence was only 41 percent.

In summary, our years of experience in administering education programs for veterans and other eligible persons convince us that correspondence courses have not fulfilled their intended purpose of aiding the beneficiary to adjust to his or her changed circumstances by providing the training required for employment. It is our conclusion that the ineffectiveness of this program, along with the potential for continued misuse, warrants its termination.

TITLE IV -- MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

Section 401 would amend section 3102(a) to reduce the period for requesting waiver of recovery of a VA overpayment from 2 years to 180 days.

Current law allows an individual who has been notified of a VA overpayment to request waiver of recovery of such overpayment within 2 years of the notice. When this section was originally written, the attitude behind allowing 2 years was to give veterans at least as much time to request waiver as was given to Federal employees who have been overpaid. Since that time, the VA overpayment problem has become more critical, and numerous debt collection provisions have been enacted to ameliorate it.

If an individual believes the VA has incorrectly stated the amount of the overpayment or that recovery of the overpayment would be against equity and good conscience, it would seem the reasons for requesting a waiver would not take 2 years to appear. Rather, it would seem that the time for presenting a waiver request and the evidence to support it would be the period immediately following the VA notice of overpayment. This would be the period when events are fresh, memories are relatively unclouded, and witnesses are most available. The applicant for waiver would be given a speedier resolution of the matter, and the VA would be able to provide the supporting documents, witnesses, and explanation while these are still close at hand.

Further, reducing the request period to 180 days would aid the VA collection effort (in which we are required to be aggressive) by lending greater finality to overpayment recovery procedures.

. Section 402

This section would provide that the amendments relating to the vocational rehabilitation program dependency allowance (set forth in section 101(1)), repeal of the so-called 50 percent employment rule (set forth in sections 204 and 207), and correspondence training (set forth in Title III) shall be effective October 1, 1982.

97TH CONGRESS
2D SESSION

S. 2747

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 16 (legislative day, JULY 12), 1982

Mr. SIMPSON (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

A BILL

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES

SECTION 1. (a) This Act may be cited as the "Veterans' Education and Employment Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS REHABILITATION AND EDUCATION

USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 101. Section 1622 is amended by adding at the end the following new subsection:

"(e) The fund established under subsection (a) of this section may be used by the Administrator for the purpose of receiving and disbursing funds received from the Secretary of Defense for administering the education assistance program authorized by section 2141 of title 10.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 102. Section 1508(g) is amended to read as follows:

"(g) No subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program while incarcerated in a Federal, State, or local penal institution for conviction of a felony.".

VETERANS OUTREACH SERVICES PROGRAM

SEC. 103. (a) Section 242 is amended by adding at the end the following new subsection:

"(c) The Administrator may assign veterans benefits counselors to such locations as educational institutions to provide assistance regarding benefits under this title to veterans and eligible persons and to provide outreach services under this subchapter.".

(b)(1)(A) Section 243 is repealed.

(B) Section 244 is redesignated section 243.

(C) Section 245 is redesignated section 244.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the items relating to sections 243, 244, and 245 and inserting in lieu thereof the following:

"243. Utilization of other agencies.
"244. Report to Congress.".

MODIFICATION OF 1989 TERMINATION DATE

SEC. 104. (a) Section 1662 is amended—

(1) in subsection (a) by—

(A) inserting after "1955" in the first sentence of paragraph (1) a comma and "and before January 1, 1980"; and

(B) adding at the end the following new paragraph:

"(4) An eligible veteran whose last discharge or release from active duty occurs after December 31, 1979, shall not be entitled to educational assistance under this chapter after (A) the expiration of the six-year period following the date on which such veteran first begins to pursue a program of education under this chapter after such discharge or release if such date occurs no later than two years after such discharge or release from active duty, or (B) December 31, 1989, whichever is the later."; and

(2) by striking out subsection (e).

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts paid by the Administrator as educational assistance under this chapter after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 105. (a) Section 1673 is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2);

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2);

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 106. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

(b) Section 1682 is amended in the second sentence of subsection (e)—

(1) by striking out "at" and inserting in lieu thereof "in accordance with the rate at which the training is to be pursued, but in no event at more than"; and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) The amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is less. Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable for any course for which there is no tuition or fees.".

(c) Section 1691(c) is amended by striking out "The" and inserting in lieu thereof the following:

"Notwithstanding the exception in the first sentence of section 1673(d) of this titie relating to any course offered under this subchapter, the".

(d) Section 1780(a) is amended—

(1) by inserting "or" at the end of clause (5);

(2) by striking out the semicolon and "or" at the end of clause (6); and

(3) by striking out clause (6).

(c) Section 1798 is amended to read as follows:

"(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such reports shall include—

"(A) data regarding the cumulative default experience, and the default experience during the preceding year, with respect to such loans; and

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title and (ii) loans made under this section.".

TITLE II—VETERANS EMPLOYMENT

CONGRESSIONAL FINDINGS

SEC. 201. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans, veterans of the

Vietnam era, and veterans recently separated from military service.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans' employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 202. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting after "opportunities" a comma and "with priority given to the needs of disabled veterans, veterans of the Vietnam era, and veterans who have been recently separated from active duty,".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 203. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State or Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the date collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title. Preference in such appointments shall be given to veterans and other persons as defined in section 2108 of title 5 and section 2011 of this title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been a bona fide resident of the State for at least two years, or, if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an individual who has been an Assistant State Director for Veterans' Employment in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the public employment service system staff and the staffs of each such other program in the State, the State Director for Veterans' Employment for the

State and the Assistant State Director for Veterans' Employment for the State shall—".

(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title, by working closely with appropriate Veterans' Administration officials;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

SEC. 204. (a) Subsection (a) of section 2003A is amended by adding at the end the following new paragraph:

"(5) Funds provided to States under this section shall be subject to the supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by striking out "section 621A" and inserting in lieu thereof "section 612A"; and

(2) by inserting after the first sentence the following new sentence: "The Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of the limitation prescribed in the preceding sentence.".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in clause (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following:

"(8) Development of outreach programs with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.".

Section 2003A is further amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d), as redesignated by clause (2) of this subsection, the following new sentence: "In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 205. (a) Subsection (a) of section 2006 is amended—

(1) by inserting "and chapters 42 and 43 of this title" after "of this chapter" in the first sentence; and

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "in consultation with the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 206. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

SEC. 207. Section 2011(5) is amended by inserting a comma and "and the United States Postal Service and Postal Rate Commission" after "title 5".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

SEC. 208. (a) Section 2012 is amended by adding at the end thereof the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within ninety days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 209. (a) Section 2025 is amended to read as follows:

§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment.

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 210. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE III—MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 301. Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the Administrator determines that such notification was not actually received by such payee".

SEC. 302. Except for section 208(b), the provisions of this Act shall become effective on October 1, 1982.

III

AMENDMENT NO. 1984

Purpose: To specify congressional intent with respect to implementation of the targeted GI bill delimiting date extension and to provide expressly for tolling the period of time in which a veteran has to use certain vocational rehabilitation or education benefits when the veteran has been prevented by an alcohol or drug dependence or abuse condition from using such benefits.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

S. 2747

To amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes.

July 21 (legislative day, July 12), 1982

Referred to the Committee on Veterans' Affairs and ordered to be printed

AMENDMENTS intended to be proposed by Mr. CRANSTON (for himself and Mr. SIMPSON)

Viz:

On page 7, between lines 19 and 20, insert the following new sections:

"CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

"SEC. 107. (a) Section 1662(a)(3) is amended—

"(1) in subparagraph (C)(i) by striking out 'may' and inserting in lieu thereof 'shall' and by striking out 'only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective' and inserting in lieu thereof 'unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes'; and

"(2) in subparagraph (D) by striking out '1983' and inserting in lieu thereof '1984'.

"(b)(1) Not later than thirty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed thirty days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by section (a) of this section.

"(2) Not later than ninety days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i) as so amended.

"TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

"SEC. 108. (a) Section 1501 is amended—

"(1) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10); and

"(2) by inserting after paragraph (2) a new paragraph (3), as follows:

" '(3) the term "medical condition" includes an alcohol or drug dependence or abuse condition of a veteran.'.

"(b) Section 1662(a)(1) is amended by inserting '(or an alcohol or drug dependence or abuse condition from which such veteran has recovered)' after 'misconduct' ".

On page 17, line 15, strike out "SEC. 302. Except for section 208(b)," and insert in lieu thereof "SEC. 302. (a) Except as otherwise provided in subsection (b) of this section,".

On page 17, after line 16, insert the following new subsection:

"(b) The provisions of sections 107, 108, and 208(b) of this Act shall be effective on the date of enactment.".

Chairman SIMPSON. I realize that Senator Cranston is involved in floor duty and so must make his remarks shortly. So let me, at this point, recognize for any statement or comment Senator Strom Thurmond who, as I say again and again, has been most extraordinarily supportive of me and of this committee's activity. I am privileged to serve on a committee of which he is chairman, the Judiciary Committee. He's a most extraordinary gentleman.

Senator Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman, I appreciate your comment and remarks and I assure you the feeling is mutual.

Mr. Chairman, it is a pleasure to be here today to receive the testimony on S. 2747 which includes various legislative proposals intended to adjust and improve veterans' education and employment programs.

I want to welcome the distinguished list of witnesses who will testify today and I look forward to their testimony. I especially want to welcome Col. William C. Plowden, Jr., who today is testifying before this committee for the first time since being confirmed by the Senate as Assistant Secretary of Labor for Veterans' Employment.

Colonel Plowden, I believe most of the employment related legislation which is before the committee today is intended to strengthen your control over and enhance the operations of veterans' employment programs. All of us here today are concerned with the high rate of unemployment among veterans and especially among disabled and Vietnam-era veterans. We stand ready to assist you, Colonel Plowden, and others, in any way we can to put America's veterans back to work. We appreciate the good work you are doing.

Let me say briefly too, that it is always a pleasure to have Ms. Dorothy Starbuck with us and to take advantage of the great knowledge which she possesses concerning veterans' benefit programs.

Mr. Chairman, one of the provisions which we will consider today would extend the GI bill delimiting date. The purpose of this extension is to prevent the early separation of some servicemembers who, if allowed to retain their GI bill eligibility, will remain in the service until they become eligible for retirement.

I support this provision because it will promote the retention of experienced personnel who are vital to military operations.

I would note, additionally, that if many service members can be expected to leave the armed services and forgo retirement to receive GI bill benefits this is a reflection of the importance of educational benefits. I believe that educational benefits can also be extremely valuable in recruiting quality people for service. I remain a strong supporter of a new GI bill and I will continue to urge the support of my colleagues in the Senate for this important program.

Thank you again, Mr. Chairman. And any way I can serve you, well, call upon me.

Chairman SIMPSON. Thank you very much, Strom, I certainly have and will do that. I appreciate your being here.

Senator THURMOND. If you will excuse me, I've got to go and open the Senate.

Chairman SIMPSON. Yes, indeed.

At this point in the hearing record I will insert the prepared statements of Hon. Robert T. Stafford, U.S. Senator from the State of Vermont, who could not be present because he is chairing a hearing being held by the Committee on Environment and Public Works; and Hon. Frank H. Murkowski, a U.S. Senator from the State of Alaska.

[The prepared statements of Hon. Robert T. Stafford and Hon. Frank H. Murkowski, follow:]

PREPARED STATEMENT OF HON. ROBERT T. STAFFORD, A U.S. SENATOR FROM THE STATE OF VERMONT

Mr. CHAIRMAN:

I join with you in extending grateful appreciation to our witnesses for today's hearing. We rely upon the assistance of representatives of the Veterans' Administration, the Department of Defense, the Congressional Budget Office and veterans' organizations in connection with S. 2747, the proposed "Veterans' Education and Employment Amendments of 1982".

It is important that our Senate Committee on Veterans' Affairs review veterans' benefits and programs to make sure the programs are working as intended in behalf of veterans, their dependents and survivors.

One of the changes provided in S. 2747 would permit military personnel who served during the Vietnam war period to take advantage of educational benefits even though the GI Bill is scheduled to terminate in 1989. This should be of considerable help in recruitment and retention in all of the military services. The funding for these educational benefits after December 31, 1989, is to be provided by the Department of Defense.

Unemployment remains a serious problem for our veterans. It is my understanding that during this year unemployment among Vietnam-era veterans within the age range of 25 to 39 years has remained at or above nine percent. It is indeed appropriate that our Committee consider legislation to strengthen existing laws and procedures in order that veterans achieve the help needed in obtaining and retaining employment.

I am looking forward to hearing and studying the testimony to be received this morning. Although I will be unable to be present the entire time of the hearing, I can assure you that your testimony will be helpful to members of the Committee and our staff.

PREPARED STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Good morning, Mr. Chairman. I am pleased we have the opportunity to discuss veterans' employment and education issues and programs.

I am most interested in S. 2747 and the possibility that it will improve the operation of veterans' employment services by the Department of Labor. I plan to study these provisions of S. 2747 with great care so as to ascertain how these reforms can benefit Alaskan veterans.

Considerable attention has been focused on the need to alter the termination date of the current GI bill, which is scheduled to expire at the end of 1989. We are all aware of the value of the GI bill for veterans seeking an education, and I look forward to the consideration of extending this program.

I was most pleased to have had the opportunity to be an original cosponsor to an amendment to S. 2036, the Senate-passed bill which is designed to replace certain CETA operations. That amendment seeks to establish a $13 million employment training fund in order to assure that veterans' employment services receive the proper national attention they deserve. The money for this fund would come from the section of S. 2036 which allocates administrative expenditures, thus avoiding an increase in the cost of the bill.

The current international recession has hurt many sectors of the Alaskan economy. Veterans have been greatly affected by this economic slump. Veterans' unemployment in my State has at times approached 80%, and this problem is of great concern to me. I have been working with oil industry representatives in an effort to combat unemployment among Alaska's veterans. Because of my concerns, I am very appreciative of the Chairman's and this Committee's interest in this matter and of their desire to improve the Department of Labor's veterans' employment services programs.

Chairman SIMPSON. We will proceed now with the agenda. When Senator Cranston arrives should he be at full lope we will interject or stop and he may have an opening statement he may wish to render and we will make an appropriate break for that, perhaps, if he should wish.

So, now we will proceed with Dorothy L. Starbuck, Chief Benefits Director, accompanied—well, you might just introduce those that are with you if you will. And it's nice to have you here this morning.

TESTIMONY OF DOROTHY L. STARBUCK, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION, ACCOMPANIED BY JUNE C. SCHAEFFER, EDUCATION SERVICE; AND JAMES P. KANE, ASSISTANT GENERAL COUNSEL

Ms. STARBUCK. Thank you, Mr. Chairman. With me is Ms. June Schaeffer of our Education Service and Mr. Jim Kane of the General Counsel's Office.

I am very pleased this morning, Mr. Chairman, to appear to provide the views of the Veterans' Administration on S. 2747, which was recently introduced by you and Senator Cranston. We are gratified that this measure incorporates many of the recommendations this agency made to the Congress on February 22, and introduced, at our request, as S. 2380.

I will, with your permission, summarize my prepared statement which contains our detailed views on the provisions of S. 2747 and limit my remarks to the major portions of the new bill.

Chairman SIMPSON. Thank you, Ms. Starbuck.

Ms. STARBUCK. The new measure would repeal the termination date of December 31, 1989 for the current GI bill program and substitute a new provision which would allow many individuals who have GI bill entitlement to remain in the military service and still have eligibility for their educational benefits.

In general, such veterans would be required to commence their programs of education within 2 years of their last discharge or release from active duty and would be required to complete their programs of education within 6 years.

A new section would be added to title 38, United States Code, to provide that any educational benefits awarded veterans for pursuit of programs of education under the GI bill after December 31, 1989, would be funded by the Department of Defense.

The administration supports the position that individuals who remain in the service beyond December 31, 1989 and who have GI bill eligibility should be allowed a 10-year period after their last discharge or release within which to use such eligibility. The administration's position was set forth by Dr. Korb of the Department of Defense in his testimony of March 11 before a joint meeting of the House Armed Services and Veterans' Affairs Committees.

While it would appear that the provisions contained in S. 2747 are reasonable and would afford these individuals a period of time within which to obtain their education and also meet the administration's goal of retaining these individuals in the armed services, we continue to prefer the 10-year period of eligibility.

S. 2747 would allow the Veterans' Administration to utilize the established VEAP account in the Treasury for the deposit of funds received from the Department of Defense for the new "901" education program established in 1980. This provision is identical with our recent recommendation to the Congress and we urge that it be promptly enacted.

Both S. 2747 and the administration bill contain provisions modifying payment of subsistence and educational assistance benefits to veterans and/or dependents incarcerated in Federal, State or local prisons as the result of conviction of a felony. Payments would continue to be limited to educational costs as under current law. However, certain determinations the VA is now required to make with respect to living expenses or veterans and/or dependents who are in a halfway house or a work release program would be eliminated.

In addition, determinations concerning the defrayment of educational costs in whole or in part in the case of certain veterans and/or dependents who have been convicted of a misdemeanor, for example, would be eliminated as well. Neither provision has been cost-effective and both have presented administrative problems for us.

We support provisions to permit assignment of veterans' benefits counselors to schools and to repeal the vet rep program. We also support provisions which would repeal the requirement that vocational schools report on the numbers of their graduates who have been employed in fields for which the training was provided. In both cases we feel these provisions are no longer needed.

We favor provisions dealing with the charging of entitlement in the case of individuals pursuing independent study courses, the application of the 85-15 requirement to certain secondary school enrollments, and the elimination of requirements that the VA report to the Congress, on a school-by-school basis, defaults in our education loan program.

With respect to the pursuit of independent study and application of the 85-15 requirement, we would ask that we be allowed to work with your staff to assure that language which would provide greater clarification of the law is insured.

Both of these measures would reduce from 2 years to 180 days the period of time within which an individual may request waiver of the recovery of an overpayment. S. 2747, however, adds a further provision which would allow the Administrator to grant a reasonable period of time for requesting the waiver where it is determined that notification of the overpayment was not actually received by the individual.

We perceive certain administrative and cost problems with this portion of the provision.

S. 2747 omits two provisions which we favor. First, in S. 2380, we advocate termination of the correspondence training program. We have, for a number of years, emphasized to the Congress that this type of training does not lead to jobs. We therefore urge the Congress to take the one final step needed to eliminate this training from our educational programs.

The bill also does not incorporate authority we are seeking to permit the Administrator, where he finds that a course or school fails to meet certain fundamental statutory approval or a school fails to adhere to recordkeeping or reporting requirements, to suspend or terminate benefits to veterans and dependents in most courses and schools.

We believe that such authority would allow us to prevent many overpayments of benefits which are now occurring. Adequate notice to the schools of the deficiencies and to the individuals of the action being taken would be retained.

Title II of S. 2747 deals with employment matters which come within the purview of the Department of Labor. We would defer to the Department of Labor in testimony on that bill and we would only assure you that the VA will cooperate and coordinate with all Federal, State, and local government programs that are engaged in assisting veterans in resolving readjustment and employment problems.

Mr. Chairman, that completes my summation. We shall be very pleased to answer any questions you may have.

Chairman SIMPSON. I thank you very much.

Could you describe the examples of the intention to assign veterans' counselors to educational institutions and provide these outreach services? What would you expect the scope of that effort would be? How would funds be provided for that effort?

Ms. STARBUCK. These would be assignments given to veterans' benefits counselors who are normally a part of our complement in the Veterans' Assistance Service. They would be assigned to, perhaps, schools where new programs are being instituted to assist the officials of that school in the submission of enrollment documents and the requirements that we have.

Chairman SIMPSON. What is the default rate on loans at the present time—education loans? How do you define a high rate of default? How many schools have this high rate of default? Are there explanations for these high rates other than less-than-diligence or sloth?

Ms. STARBUCK. Unfortunately, Mr. Chairman, the default rate is now clocked at 71 percent. I think that were we in a commercial business and we had a default rate of anything approaching 5 percent we might be taking a look at where we were with respect to that.

The default rate, I think, has been created principally by an ignoring on the part of veterans of their responsibility with respect to the contract that they have made with the agency. Many of them have considered this a grant rather than a loan. And right now we have some 2,910 schools whose students have defaulted on education loans.

Chairman **Simpson**. 2,000——

Ms. **Starbuck**. 2,910 schools. Yes, sir.

Chairman **Simpson** [continuing]. Schools that have——

Ms. **Starbuck**. That have had attendees who have defaulted on loans.

Chairman **Simpson**. If you were to disqualify schools—if we were to disqualify schools with poor reporting histories, how would that process be handled? How would you determine which schools to disqualify? How far in advance would the school be notified? How would the individual student—I think this is our concern—how would the individual student be protected from suffering because of poor school administration?

Ms. **Starbuck**. In the normal course of our compliance surveys at schools, which are periodically conducted, if we detect a rather serious default—or fault with respect to recordkeeping or reporting—it is our normal custom to audit a larger number of cases than we would normally cover in a compliance survey.

If that audit were to verify the preliminary finding in the compliance survey we would then consult with the school officials and apprise them of the errors we had noted and had verified and give them anywhere from 30 to 60 days to kind of clean up their act. Then, a subsequent compliance survey or audit would be made to determine whether in fact the school had taken any positive action toward correction of their faulty practices. And if this were not done, then we would have to notify the school and the students that within 30 days benefits would no longer be paid, pending correction of the recordkeeping practices.

Chairman **Simpson**. Let me interrupt here at this time to recognize the ranking member of this committee, Senator Al Cranston, for any opening statement he may wish to make.

Senator **Cranston**. Thank you very much. I appreciate your cooperation. I apologize to the witnesses this morning. I will keep my remarks very brief. I realize we have many witnesses and much ground to cover this morning.

I do want to say it is a great pleasure to join this morning with the distinguished chairman of the committee, Al Simpson, in welcoming our many witnesses and guests. Indeed, it is a particular pleasure since the primary focus of the hearing is S. 2747, the proposed "Veterans' Education and Employment Amendments of 1982", which Chairman Simpson and I introduced on July 16, and amendment No. 1984 to that bill, which I introduced with Senator Simpson on July 21. These are truly bipartisan initiatives. They are representative of the spirit of cooperation and coordination that have marked the development of both measures by our committee.

Al, I certainly welcome this return to our usual approach and want to thank you personally for your fine cooperation and flexibility in the development of these measures and especially for your support of amendment No. 1984. As always, Al, it is a great pleasure to work with you.

In connection with these measures, I want to make specific note of three items at this time.

First, I want to indicate my very strong support for the provisions of S. 2747 that would modify the 1989 termination date for the current GI bill. These are patterned after provisions I authored in 1980 and that the Senate approved in connection with the 1980 comp legislation. However, despite my best efforts, and those of others, the extension was rejected by the House at that time.

I am delighted that both the Department of Defense and the Veterans' Administration support this provision. I hope that that will contribute to our success this time around.

Second, during the Senate's consideration in June of the proposed "Training for Jobs Act"—in connection with the amendment No. 1066 to S. 2036 that Senator Simpson, Senator Thurmond and I coauthored and that would provide for nationally conducted veterans' employment programs—I indicated my intention to develop legislation to resolve certain problems that had developed in the administration of the disabled veterans' outreach program.

Section 204—and particularly subsection (a) of section 204—of our bill, S. 2747, attempts to deal with certain funding problems now plaguing the effectiveness of the DVOP program. I welcome the input of all the witnesses on these provisions and look forward to working together to develop legislation that will provide appropriate remedies.

Finally, I want to call special attention to the provisions of our amendment No. 1984. This amendment would clarify congressional intent with respect to the implementation of the so-called "targeted delimiting date extension" enacted last year in Public Law 97-72. It would also provide for an extension, by way of a tolling, of a Vietnam-era veterans' GI bill delimiting period when the veteran has been, but is no longer, prevented by an alcohol or drug dependence or abuse condition from pursuing a program of education.

This second provision, which I have strongly advocated for the last 4 years along with Senator Boschwitz of Minnesota, is based on provisions that have twice passed the Senate but have each time been rejected by the House.

I want particularly to thank the American Legion for their support in today's testimony for both provisions in amendment No. 1984.

Mr. Chairman, I ask unanimous consent that a copy of my remarks on the amendment be printed at an appropriate place in the hearing record.

Chairman **Simpson**. Without objection.

Senator **Cranston**. I look forward to receiving the testimony of our witnesses and to the opportunity to submit some questions to them. Unfortunately, it appears that I will not be able to remain for the questioning opportunity. However, I will study the testimony carefully and will have questions to be submitted for the record.

I would like to alert you at this time that I am submitting an identical question to both the VA and the Department of Defense dealing with what appears to be a real inequity that has recently come to my attention regarding the rate at which VEAP educations assistance benefits may be used. I would appreciate your prompt attention to that question in consultation with each other so that the committee could consider appropriate remedial legislation in connection with its scheduled August 12 markup. I thank you very, very much.

Chairman **Simpson**. Thank you, Al. I didn't realize when you came in that you were in extremis there and were trying on the glasses of all present.

Senator **Cranston**. Right.

Chairman **Simpson**. I understand now. You look very dapper in designer glasses. I think.

Senator **Cranston**. I ask unanimous consent that any errors in my remarks be corrected in the record.

Chairman **Simpson**. All right.

[Questioning of VA witnesses resumed.]

Chairman **Simpson**. Just one more question. In your testimony before Congressman Edgar in the House on June 17 concerning the targeted delimiting date extension, you pledged that you would review 10 percent of the decisions—that was in the testimony—the decisions that denied veterans from qualifying for this program. Have you now had that opportunity to review any of those denials and to form any conclusions?

Ms. **Starbuck**. We have called in the requisite number of cases. We called in 311 cases. While the review is not yet completed we do have some preliminary indications on 309 cases that will probably, Mr. Chairman, lead us to a rather studious review of the circular which we issued which has been or was the subject of the hearing in the House and has been subject to question here.

Right now we don't have the full picture. I will be briefed on that review next week. And we will have information to the committee in time for the markup session on this bill.

Chairman **Simpson**. But at least you have a number. What was your number? Three hundred and what?

Ms. **Starbuck**. 309, Mr. Chairman.

Chairman **Simpson**. And you are going thoroughly through the information gained on those cases?

Ms. **Starbuck**. That is correct, Mr. Chairman.

Chairman **Simpson**. Well, we'll be very interested in that and look forward to having it as soon as possible.

I think that I shall just submit the balance of these questions in writing and request that you respond to those. I thought I was able to get another member or two to come in. And I have a problem coming in an hour or so. So, I must conclude. And I thank you very much for your presence.

Ms. **Starbuck**. Thank you, Mr. Chairman.

[Subsequently, the Veterans' Administration submitted the following information:]

Department of Veterans Benefits Washington, D.C. 20420

Veterans Administration

AUG 17 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The House Veterans Affairs Committee Subcommittee on Education, Training and Employment held a hearing on June 17, 1982, regarding the implementation of Public Law 97-72. Much of the testimony introduced at the hearing concerned the extension of delimiting dates of veterans who are educationally disadvantaged or unskilled. In response to inquiries regarding the large number of denials associated with this program, I indicated that I would have a special review conducted of ten percent of the claims denied to determine whether the decisions were proper. The review has been completed and the findings are enclosed for your information.

The examination of 309 individual case files selected from sixteen of our field stations indicated that the decisions to deny extensions of delimiting dates were proper under existing criteria. However, several concerns were identified which have led me to initiate changes in our processing instructions. Foremost among these changes is an upward revision in the amount of vocational preparation which will be recognized before an individual is considered ineligible for an extension. A job requiring three months or less of vocational preparation was defined as being entry level in DVB Circular 22-81-15 dated December 22, 1981. That level was based upon our belief that large numbers of veterans with very low skill levels would apply for an extension and that this program should be targeted to those most in need of assistance. Such has not proven to be the case, and I believe an upward revision of this criterion is justified. I am, therefore, allowing up to two years of vocational preparation, rather than the previous three months, as constituting entry level for purposes of an extension of delimiting date.

The second primary change involves the consideration of military training and experience as vocational preparation. Background in the military had been evaluated on the same basis as other training and experience, but the review found that extremely few of the veterans who applied under PL 97-72 had subsequently used military skills in civilian employment. I am, therefore, directing that military training and experience not be considered as vocational preparation. The only exceptions will involve career military personnel

In Reply Refer To: 22A

and those veterans who have subsequently continued civilian careers directly related to military preparation. Third, I am instructing our field stations not to consider vocational preparation attained prior to entering the military as precluding eligibility. It is my belief that the changes which I have initiated will result in a substantial increase in the numbers of veterans who will qualify for an extended delimiting date under the provisions of PL 97-72.

I was also concerned that a portion of the veterans who requested the help of counseling were not afforded this assistance. Therefore, our instructions will be clarified and expanded with respect to counseling. Decisions based upon limited or dated information will be reduced, and development of current information from veterans will be increased. Added emphasis will be placed on the need to provide veterans with information about alternative programs, such as vocational rehabilitation, as well as the need to properly inform all denied applicants of their appellate rights. These procedural changes are intended to further enhance the operation of this program and provide needed services to those who apply.

A listing is being maintained at each field station of veterans whose applications have been denied. Cases on this listing will be individually reviewed to determine eligibility under these revised criteria. Those who are found to be eligible will promptly be notified of this decision. Our revised procedures will be included in an amendment to the basic circular for field station distribution and for publication in the Federal Register. I trust that this information will be of assistance to you in your continuing oversight of this program.

Sincerely yours,

Dorothy L. Starbuck

DOROTHY L. STARBUCK
Chief Benefits Director

Enclosure

VETERANS ADMINISTRATION

DEPARTMENT OF VETERANS BENEFITS

Review of Claims Folders - Denial of Delimiting Date Extensions Under Public Law 97-72

1. BACKGROUND

a. Public Law 97-72 amended Title 38 U.S.C, Section 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled. DVB Circular 22-81-15 with Changes 1 and 2 provides instructions for extending the delimiting dates of veterans who are educationally disadvantaged or unskilled. Statistics regarding this program are generated through a quarterly report (RCS 22-28), and data indicate that claims have been denied in 82% of the cases processed.

b. The Chief Benefits Director, in testimony on June 17, 1982, before the HVAC Subcommittee on Education, Training and Employment, made a commitment to review ten percent of the denied claims to determine if the actions were proper and in accordance with agency directives. In compliance with this commitment, the Education Service requested 311 denied claims from 16 regional offices. The cases selected were from the stations shown below:

EASTERN		CENTRAL		WESTERN	
Atlanta	25	Des Moines	28	Albuquerque	13
Boston	14	Detroit	25	Portland	20
Hartford	6	Indianapolis	21	San Francisco	20
Newark	18	Montgomery	20	Seattle	20
Philadelphia	20	Nashville	26		
St. Petersburg	27	Sioux Falls	8		
TOTALS	110		128		73

c. There were 310 cases actually received of which 309 were usable for review purposes (one case was an approval). A special review team comprised of four technically competent staff members conducted dual reviews of all files. A review sheet (Attachment A) was devised and completed for each case examined. Following the completion of all reviews the results were tabulated on summary data sheets (Attachment B). Individual station letters are being prepared enumerating any corrective actions or procedural changes needed.

2. FINDINGS

a. Denial Actions: In no instance did Central Office review find the station denial to be incorrect under existing criteria. There were many procedural points of difference among the stations and several cases where further development would have been recommended. However, even in these cases the information on file was sufficient to support the denial of the claim.

b. Procedural Improprieties: In 44 instances, 14.2%, there was an incorrect referral to VR&C which was not requested or a failure to refer when counseling was requested. When a case was not referred as requested, the Adjudication Division properly denied the claim although the claimant was not afforded the benefit of other counseling assistance. In 30 cases, 9.7%, there was no documentation to indicate that appellate information was sent to the veteran. Ten veterans, 3.2%, who were informed of appellate rights, had filed a notice of disagreement. Some cases did not have formal administrative decisions prepared as required while others prepared decisions unnecessarily. In all of these cases the denial action was proper and supported by evidence of record. Some of the letters to the veterans did not fully explain the basis for denial and resulted in followup inquiries for clarification. Attachment H contains select data broken down by station.

c. Specific Vocational Preparation: Most veterans had attained levels of education, training or experience equivalent to two to four years of preparation. The average of the highest SVP codes assigned to the cases was 6.4. Not all cases had SVP codes since some denials were based upon college credit, failure to respond, etc. Some cases had more than one SVP code, and in these instances the highest code was used. There were 218 cases which had a code available, and 111 of these achieved an SVP of 7. There were only 21 cases, or 9.6%, with a code of 4, the lowest SVP which would preclude eligibility for an extension. Attachment C contains a complete depiction of the distribution of scores. Attachment C-1 defines the various SVP codes available.

d. Entitlement Use: Veterans in this sample used a mean of 12.65 months of prior VA educational entitlement. There were 47 veterans, 15.2%, who had used no prior educational benefits and 21 veterans, 6.7%, who had used more than 36 months of entitlement. The request for an extension represented a second or subsequent change of program for 88 veterans, 28.5% of the total. Attachment D has a breakdown of benefit use by station, and Attachment H shows second change of programs.

e. Educational Attainment: There were 34 veterans, 11.0%, who did not have a high school diploma or GED, and 62 veterans, 20.0%, who were college graduates or who had completed two or more years of college. It was noted that among those with no high school diploma many had attained some type of training since leaving the military - NCD program, correspondence course, or OJT/apprentice training. Attachment E presents data on educational attainment.

f. Training Requested: College level training was the most requested type of program with 70 veterans, 22.7%, asking for college attendance. However, nearly half of these college requests were for two-year technically related degree programs. Only 10 veterans, 3.2%, requested high school training although 11% of the applicants were not high school graduates. All denials for high school training were based upon the course having no charge for tuition and fees. Allowable payment is limited by law to the cost of tuition and fees charged. Forty-two claims, 13.6%, were for mechanical or machinist training and 34 claims, 11.0%, were for various OJT/apprentice courses. Approximately half of the OJT/apprentice applicants were already employed in the requested program. Attachment F lists the primary categories of training requested.

g. Age of Applicants: The average age of the applicants was 35.3 years, with 274 veterans, 88.7%, falling between 31-40 years of age. Twelve veterans, 3.9%, were 30 years or younger, and 13 veterans, 4.2% were over age 50. St. Petersburg had the high mean age of 29.6 years and Albuquerque the lowest at 32.9. Attachment G contains further breakdown.

h. Veterans' Employment: Definitive information was not available in the claims folder to provide meaningful data on veterans' last employment, salary, location, length of time so employed, or reason for unemployment. A substantial number of denials based on "not unskilled" were supported by evidence of record in the claims file, and no development was necessary or undertaken. Although the information of record was sufficient to support the denial action, it did not provide current employment information. The few cases which contained information regarding reasons for unemployment focused on economic conditions - "plant closed", "laid off", "cut back in work", "went bankrupt", etc. In no instance was lack of skill or training stated as a factor in unemployment. Neither was veteran status or prior military service listed as a contributing factor to lack of employment.

3. DISCUSSION

a. The total Vietnam Era veteran population numbers 9,757,000. Of this gross population, only 5,378 applications have been received requesting an extension under PL 97-72. Based upon this low number of applicants and the results of the case reviews, it is postulated that unemployed and underemployed Vietnam Era veterans are more interested in securing viable employment than in undertaking an extended program of education or training. It is further observed that the types of training requested by the applicants did not differ substantially from the types of training or employment previously experienced by these same applicants. One veteran who has a background in welding may apply for a program of training in auto mechanics while another veteran in the same locale who is experienced as a mechanic may be applying for welding. It is proposed that the types of programs generally requested for extension would not substantially enhance the veterans' employability.

b. The denial actions by the various field stations were all correct according to the minimum requirements stated in DVB Circular 22-81-15, but further development was suggested in many instances. Several stations denied claims purely from information of record even though such information was marginal and dated. Information contained on the DD 214 (separation from active military duty form) or VAF 22-1990 (initial application for GI Bill benefits) formed the basis for a large number of denials premised upon "not unskilled". A more liberal development policy at these stations may or may not have affected the outcome of the claims. However, in select instances where information was developed, it was noted that decisions based solely on job titles carried higher SVP codes than decisions which considered an expanded description of duties. This would suggest an expansion of the criteria used to justify a development letter. Development should perhaps become mandatory in any case where complete education and employment information (as defined in DVB Circular 22-81-15, paragraph 5.b.(1)-(3)) is not of record.

c. Twenty-nine (9.4%) of the veterans who applied for an extension had a service-connected disability of 10% or greater. An additional five applicants referenced non-military injury or illness as a factor in requesting an extension. In only one of all these cases was counseling provided. In two other cases counseling was requested but not furnished. The Veterans Administration has traditionally recognized a higher obligation to assist disabled veterans than other categories of applicants, but it appears that such "extra help" was not provided in these cases. Even though the denial of the claims was proper, it is believed that further assistance was called for -- such as furnishing information about Chapter 31 or state vocational rehabilitation. These cases will be brought to the attention of the respective regional offices, but perhaps there is a need to amplify instructions for all stations.

d. An overwhelming majority of applicants (82.6%) had SVP codes of 6 or higher. These equate to formal training or experience of over one year up to and including ten years. This high level of preparation, although possibly somewhat inflated as mentioned in paragraph 3.b., strongly supports the premise that the denials were proper inasmuch as the applicants were "not unskilled." Consideration could be given to raising the minimum SVP code. For example, changing from level 3 to level 6 would have allowed 84 (38.5%) more approvals in the cases reviewed.

e. (1) The Vietnam Veterans Civic Council of the Detroit VARO had made several recommendations concerning the implementation of PL 97-72. One recommendation is to include associate degree programs at community colleges which do not lead to a bachelor's degree program (i.e. associate degree in welding, automotive technology, etc.) as vocational training. Approximately 10% of the veterans in this review requested extensions for attending vocationally oriented programs at community colleges. Such programs cannot presently be approved because they do not meet the requirements of the law for approval as courses with vocational objectives.

e. (2) The Council has also recommended that military training and experience be excluded from the determination of job skills. Training and experience received while in the military is evaluated on the same basis as other training and experience. However, it was noted in our review that practically no one-term servicemen subsequently pursued civilian careers related to their military specialty. Further, it was noted that the actual military duties, when developed, often did not equate to the position title (i.e. a "wheeled vehicle mechanic" may have changed tires and washed trucks in reality). Elimination of military skills, with two qualifications, would seem to be supported. The two qualifications would exclude career military personnel and those who have subsequently pursued civilian employment based upon military experience.

f. In summary, the implementation of PL 97-72 appears to be substantively correct but in need of procedural attention. The veterans whose folders were reviewed were indeed either not unskilled or not educationally disadvantaged. No one was improperly denied an extension of delimiting date. Development of information, administrative decisions, referrals for counseling, and denial letters can all be improved. Consideration of the points discussed in this paper can perhaps enhance further the operation of this program.

REVIEW OF CLAIMS FOLDER (PL 97-72)

CO REVIEWER ____________________

1. (a) ____________________ Claim Number (b) ____________________ Veteran's Name (c) ____________________ Regional Office

(d) Course Applied For: ____________________

(e) Basis for Station Denial:
___ Not Educationally Disadvantaged
___ Not Unskilled
___ Other (specify) ____________________
____

2. (a) ____________________ Dates of Service (b) ____________________ Date of Birth (c) ____________________ Number of Dependents

3. (a) Have previous VA education benefits been used? _____ Yes _____ No

(b) If "yes", attach MINQ Screen M21, M22, M23, and/or M24 as appropriate showing all programs, dates, objectives, and whether a loan is in effect.

(c) Highest level of education attained: ____________________

4. (a) Does the veteran have a service-connected disability: _____ Yes _____ No

(b) If "yes", attach MINQ Screen M13 showing the nature and percent of disability.

CENTRAL OFFICE REVIEW

5. Is the veteran educationally disadvantaged? _____ Yes _____ No _____ Unknown (development needed)

6. Is the veteran unskilled? _____ Yes _____ No _____ Unknown (development needed)

(a) Training since high school: (list others on back)
(1) Course ____________________
(2) Completed ________ Yes ________ No
(3) Dates ____________________
(4) EPV Code ____________________

(b) Last Employment: (list others on back)
(1) Title ____________________
(2) Employer ____________________
____
(3) Salary ____________________
(4) Description ____________________
____
(5) Dates ____________________
(6) Reason for Unemployment ____________________
____
(7) EPV Code ____________________

(c) Employment Training: (list others on back)
(1) Description ____________________
____
(2) Hours of instruction ____________________
(3) Dates ____________________
(4) EPV Code ____________________

7. Delimiting date extension should be denied based upon:
_____ no response to development request
_____ entitlement exhausted
_____ other (specify) ____________________
____

8. (a) Was the requested program approved for VA benefits: _____ Yes _____ No

(b) If "no", was proper development done? _____ Yes _____ No

9. (a) Did this request count as a second change of program? _____ Yes _____ No

(b) If "yes", was it approved? _____ Yes _____ No

10. (a) Was counseling requested? _____ Yes _____ No

(b) If "yes", was it provided? _____ Yes _____ No

11. (a) Was the administrative decision properly prepared? _____ Yes _____ No

(b) If "no", what were the problems: ____________________
____

12. (a) Was the dictated denial letter to the veteran properly prepared? _____ Yes _____ No

(b) If "no", what were the problems? ____________________
____

ATTACHMENT B

Claim Number	Course Applied For	Basis for Denial	Dates of Service	Age	#of Dep	Prio Use Edu	Type of Training Use	Hig Edu	SCD %	Edu Dis	Uns kil	Training Since H S (SVP)	Employment (SVP)	Employment Training (SVP)	2nd Chg	Coun Requ	Coun Prov	Appea Rts Gvn	Job FILE

Attachment B

Attachment C

HIGHEST SVP CODE

EASTERN	SVP 4	SVP 5	SVP 6	SVP 7	SVP 8	SVP 9
Atlanta	2	2	3	5	4	
Boston	1	1		8	1	
Hartford		1	1	1		
Newark	2	1	3	7	1	
Philadelphia	1		3	9	3	
St. Petersburg		3	5	10	3	
CENTRAL						
Des Moines	5	1	6	9	2	
Detroit	2		4	10	2	
Indianapolis	1	1	4	4		
Montgomery		2	6	3	1	
Nashville	3	3	3	12		
Sioux Falls				5		
WESTERN						
Albuquerque	1			9	1	
Portland			3	4	1	
San Francisco	1	1	1	7	3	
Seattle	2	1	4	8	1	
TOTAL	21	17	46	111	23	0 = 218*
PERCENT	9.6%	7.8%	21.1%	50.9%	10.6%	0%

AVERAGE: SVP 6.4

(* Although 309 cases were included in the review, only 218 had SVP codes assigned. The balance of the cases were denied based upon college achievements, failure to respond, dishonorable discharge, etc.)

Attachment C

Attachment C-1

Appendix D
Specific Vocational Preparation (Training Time)

This represents the amount of time required to learn the techniques, acquire information, and develop the facility needed for average performance in a specific job-worker situation. The training may be acquired in a school, work, military, institutional, or a vocational environment. It does not include orientation training required of even every fully qualified worker to become accustomed to the special conditions of any new job. Specific vocational training includes training given in any of the following circumstances:

a. Vocational education (such as high school commercial or shop training, technical school, art school, and that part of college training which is organized around a specific vocational objective);
b. Apprentice training (for apprenticeable jobs only);
c. In-plant training (given by an employer in the form of organized classroom study);
d. On-the-job training (serving as learner or trainee on the job under the instruction of a qualified worker);
e. Essential experience in other jobs (serving in less responsible jobs which lead to the higher grade job or serving in other jobs that qualify).

The following is an explanation of the various levels of specific vocational preparation.

Short demonstration.

Level	Time
1	Short demonstration.
2	Anything beyond short demonstration up to and including 30 days.
3	Over 30 days up to and including 3 months.
4	Over 3 months up to and including 6 months.
5	Over 6 months up to and including 1 year.
6	Over 1 year up to and including 2 years.
7	Over 2 years up to and including 4 years.
8	Over 4 years up to and including 10 years.
9	Over 10 years.

Attachment D

ENTITLEMENT USE DATA

EASTERN	Avg. Use	0	1-3	3-6	6-12	12-24	24-36	36-44	45+
Atlanta	18.78	-	2	3	3	9	6	2	-
Boston	11.41	1	3	4	-	4	2	-	-
Hartford	15.17	2	-	-	1	2	-	-	1
Newark	12.78	2	1	3	3	6	-	2	-
Phila	14.18	4	-	3	5	3	3	2	-
St. Pete	10.69	6	3	3	5	6	4	-	-
CENTRAL									
Des Moines	9.01	5	3	4	8	6	2	-	-
Detroit	9.49	7	-	8	5	1	3	1	-
Indianapolis	13.75	3	1	2	6	6	2	2	-
Montgomery	18.99	-	3	2	2	7	2	4	-
Nashville	16.94	3	2	3	3	7	5	2	1
Sioux Falls	5.69	2	3	1	-	2	-	-	-
WESTERN									
Albuquerque	8.88	4	1	-	3	4	1	-	-
Portland	12.34	2	6	2	2	4	2	1	-
San Fran	10.89	4	1	4	6	1	1	2	-
Seattle	13.43	2	2	3	3	6	3	1	-
TOTAL	12.65	47	31	45	55	74	36	19	2 = 309
PERCENT		15.2%	10.0%	14.5%	17.8%	23.9%	11.7%	6.1%	0.6%

EDUCATIONAL ATTAINMENT

EASTERN	Less Than 12 Yrs.	12 Yrs. or GED	12 Yrs. & NCD	Col. Less Than 2 Yrs	Col 2-4 Yrs	Col. Grad.
Atlanta	2	2	11	2	8	
Boston	3		2	3	6	
Hartford		2	3			1
Newark	1	1	6	5	2	2
Phila	1	3	9	3	1	3
St. Pete	1	6	9	7	3	1
CENTRAL						
Des Moines	9	4	5	8	2	
Detroit	2	4	5	10	1	3
Indianapolis		3	9	5	4	1
Montgomery	4	1	7	4	4	
Nashville	2	3	11	4	5	1
Sioux Falls	1	1	3	3		
WESTERN						
Albuquerque	1	2	5	3	2	
Portland	1	2	3	8	5	
San Fran	3	4	2	6	3	1
Seattle	3	2	12		2	1
TOTAL	34	40	102	71	48	14 = 309
PERCENT	11.0%	12.9%	33.0%	22.9%	15.5%	4.5%

Attachment F

REQUESTED TYPES OF TRAINING

EASTERN	College	H.S.	Not Stated	Carpentry, A/C, Refrig.	Machinist/ Mechanic	Welding	OJT/ App.	Radio/TV Electronics	Data Process Computer	Other
Atlanta	5	1	1	3	3	2	3	5		1
Boston	5	1	3		3		1			1
Hartford	2		2		2					
Newark	3	1	3		2		5		3	
Phila	3	1			1	1	9	1	2	2
St. Pete	5		3	5	3	1		2	2	6
CENTRAL										
Des Moines	9		3	1	5	4				6
Detroit	5	1	1	1	2	4	4	1	2	4
Indianapolis	6		1	1	5	1	2	1	1	5
Montgomery	1		4	3	4	4	1	1		2
Nashville	3		1	3	5			6		8
Sioux Falls	4		1			1	1	1		
WESTERN										
Albuquerque	3		2	1	2	1	1		1	2
Portland	8		2		1	2	1	1	1	3
San Fran.	4	2	2			2	3	3	1	2
Seattle	4	3	2		4	1	3	1		2
TOTAL	70	10	31	18	42	24	34	23	13	44 = 309
PERCENT	22.7%	3.2%	10.0%	5.8%	13.6%	7.8%	11.0%	7.4%	4.2%	14.2%

Attachment G

AGE DATA

EASTERN	Avg. Age	25-30	31-35	36-40	41-45	46-50	51-55	56-60	60+
Atlanta	34.4	2	18	2	2	-	1	-	-
Boston	38.0	-	7	5	-	-	2	-	-
Hartford	34.0	-	5	1	-	-	-	-	-
Newark	34.4	-	14	3	-	-	-	-	-
Phila	34.2	1	12	7	-	-	-	-	-
St. Pete	39.6	-	13	6	-	2	4	2	-
CENTRAL									
Des Moines	35.1	2	16	9	-	-	-	1	-
Detroit	35.6	1	14	9	-	-	-	1	-
Indianapolis	33.9	1	16	4	1	-	-	-	-
Montgomery	35.6	-	13	6	-	-	-	1	-
Nashville	36.1	1	14	10	-	-	-	-	1
Sioux Falls	37.4	-	3	4	-	1	-	-	-
WESTERN									
Albuquerque	32.9	1	10	2	-	-	-	-	-
Portland	33.4	1	14	4	-	-	-	-	-
San Fran	35.3	1	11	5	2	-	-	-	-
Seattle	35.0	1	11	6	2	-	-	-	-
TOTAL	35.3	12	191	83	7	3	7	5	1 = 309
PERCENT		3.9%	61.8%	26.9%	2.3%	1.0%	2.3%	1.6%	0.3%

Attachment H

EASTERN	Request was 2nd Change	Not Refer/ Incorrect Refer to VR&C	Appellate Info Not Given	NOD Filed
Atlanta	6	2	1	1
Boston		5	4	
Hartford		1		
Newark	5		4	2
Phila	6		2	
St. Pete	5	4	1	
CENTRAL				
Des Moines	8	4	1	
Detroit	5	3	1	
Indianapolis	4	2	1	
Montgomery	13		5	1
Nashville	13	4		2
Sioux Falls		3		3
WESTERN				
Albuquerque	6	2	1	
Portland	5	10	4	
San Fran	6	4	4	
Seattle	6		1	1
TOTAL	88	44	30	10
PERCENT	28.5%	14.2%	9.7%	3.2%

[The prepared statement of Dorothy L. Starbuck, Chief Benefits Director, Veterans' Administration, and the VA's response to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, and Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs, follow:]

PREPARED STATEMENT OF DOROTHY L. STARBUCK, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION

Mr. Chairman and Members of the Committee:

I am pleased to appear before you today to provide you with the views of the Veterans Administration on S. 2747, the "Veterans' Education and Employment Amendments of 1982," recently introduced by you and Senator Cranston. This measure incorporates many of the recommendations this Agency made to the Congress on February 22, 1982, and introduced, at our request, as S. 2380. The new proposal includes, however, one major new change concerning the current termination date of December 31, 1989, for the GI Bill program. I will provide you with the Administration's views on this new proposal later in my testimony.

Section 101 of the measure would amend section 1622 of title 38, United States Code, to permit the Veterans Administration to deposit funds received from the military services for the new Department of Defense "901" education program into the account established in the Treasury for handling funds provided the VA by DOD for administering the Post-Vietnam Era Veterans' Educational Assistance Program, known as VEAP.

The new "901" program was established by Public Law 96-342 to provide educational assistance to certain service personnel who enlisted or reenlisted in the military service between October 1, 1980, and October 1, 1981. This program, like VEAP, will be funded by the Department of Defense but administered by the VA.

The VEAP account is an established automated system which lends itself to the modifications required to run the 901 program. Allowing the VA to deposit 901 funds into the VEAP account, while keeping the funds separate, would enable us to use this VEAP account for administration of both programs. Without this authority, we would be required to establish a completely manual system for the new program. This, on its face, would make it difficult and unwieldy to administer.

The proposal included here is identical to one we submitted to the Congress last month in a letter to the President of the Senate. We are pleased that it has been made a part of your proposal and urge that it be promptly approved.

Sections 102, 106(b) and 106(d) of the measure deal with modifications of payment of subsistence allowances to veterans pursuing programs of vocational rehabilitation under chapter 31, and payment of educational assistance allowances to veterans and dependents pursuing programs of education under chapters 34 and 35 while incarcerated in Federal, State, or local prisons.

In enacting Public Law 96-466 in October 1980, the Congress imposed several restrictions on the payment of these benefits. First, as to those veterans and dependents pursuing educational programs under chapter 34 or 35 who have been convicted of a felony, provision was made to limit the benefit payments to the cost of the tuition, fees, supplies, books and equipment which similarly circumstanced nonveterans are required to pay, or the applicable monthly benefit payable to a veteran without dependents, whichever is lesser. In the case of veterans pursuing programs of vocational rehabilitation under chapter 31, the veteran would be paid his or her educational expenses, but not any subsistence allowance.

In addition, where the veteran or dependent is residing in a halfway house or participating in a work-release program, the new law requires the Administrator to determine whether all of the individual's living expenses are being defrayed by a Federal, State, or local government. If they are, we must apply the same rule as to those incarcerated. If these expenses are not being fully defrayed, we must pay the veteran or dependent the same amount normally paid a veteran or dependent who is not incarcerated.

Second, the Congress adopted the so-called Sawyer amendment which applies across-the-board to all individuals incarcerated in a Federal, State, or local prison, whether convicted of a felony or a misdemeanor. Under this amendment, payment of educational benefits is barred to the extent the tuition and fees of the individual are paid under any Federal, State, or local program (other than a program administered by the VA), or where there are no tuition and fees for the program.

Sections 102 and 106(b)(2) of S. 2747 are virtually identical with the omnibus proposal we submitted last February. Both measures provide that where an individual is incarcerated for conviction of a felony, such person would be limited to the tuition, fees, books, supplies and equipment, or the full-time single veteran rate, whichever is lesser--the same as current law--if pursuing a chapter 34 or 35 program, or educational expenses only if under chapter 31. Both proposals would eliminate the requirement for verification of the amount of the defrayment of an individual's living expenses where he or she is in a halfway house or a work-release program. This verification has been most difficult and time consuming and, therefore, has not been cost-effective.

Eliminating the determination would permit payment of the allowance to such individuals as a part of their readjustment process.

Section 106(d) of S. 2747, like our omnibus proposal, would limit the application of the so-called Sawyer amendment. Needless to say, this provision has created many administrative problems in making determinations as to the type of the conviction as well as making determinations as to the amount of payments which may be made by some other governmental unit. We would, therefore, favor repeal of this provision.

We would point out that the language which has been included in section 106(d) of S. 2747 is technically incorrect. We would be pleased to discuss this with your staff.

Section 103 would amend section 242 of title 38 to permit assignment of veterans' benefits counselors to schools and repeal section 243 which authorizes the veterans' representatives (Vet Rep) program. This section is very similar to the proposal we included in our omnibus measure, and we, therefore, favor its enactment.

The original purpose of the Vet Rep program was to alleviate problems in the educational assistance payment system which caused long delays in the receipt (or nonreceipt) of benefit checks for many veterans. The Vet Reps were to establish lines of communication in an effort to correct the problem. They were to be present full time on school campuses with large enrollments of veterans and eligible dependents.

This, of course, was during a period when enrollments in the current veteran education program were at their peak.

With the passage of time and the change in the payment provisions, as well as the reduction in enrollments of veterans and dependents, the original need for the Vet Rep program has diminished. In addition, in recent years, the Congress has acted to reduce considerably the number of these positions which may be utilized by the VA.

We believe these individuals can better be utilized to perform a variety of duties including assistance on the campuses where needed, performance of compliance inspections at schools other than to which assigned, assisting in guardianship matters, and especially outreach. Thus, in our view, these individuals could be serving the full function of a veterans benefits counselor and, as such, could provide a better service overall for the veteran through performance of a wider scope of duties than those set forth in the Vet Rep statute.

Section 104(a) of the bill would amend section 1662 of title 38 to repeal the current termination date of December 31, 1989, for utilization of educational entitlement under the GI Bill. Instead, the bill would substitute a provision which would bar eligible veterans discharged after December 31, 1979, from entitlement to GI Bill educational benefits unless they commence their programs of education no later than 2 years after discharge or release from active duty, or December 31, 1989, whichever is later, and complete their programs within 6 years.

Subsection (b) would add a new section 1694 to title 38 to provide that any educational benefits awarded for pursuit of programs of education under the GI Bill after December 31, 1989, would be paid for by the Department of Defense.

The Administration continues to support the position that individuals who remain in the service beyond December 31, 1989, should be allowed a 10-year period after their discharge or release within which to use their GI Bill eligibility. This position was set forth by Dr. Lawrence J. Korb of the Department of Defense in his testimony before a joint meeting of the House Armed Services and Veterans' Affairs Committees on March 11, 1982. Dr. Korb testified as follows:

> We recommend that the delimiting date for current GI Bill benefits be extended to ten years after the member's discharge or release from active duty. The Department cannot afford to lose highly trained technicians who leave active duty early in order to use their earned educational benefits. The Navy reports that 41 percent of third-term personnel

leaving the Navy rank 'to keep from losing my GI Bill benefits' as one of the most important factors in their decision to leave the Service. Navy estimates that 250,000 of its active duty members are eligible for GI Bill benefits.

While it would appear that the provision contained in S. 2747 is reasonable and would afford these individuals a period of time within which to obtain their education and also meet the Administration's goal of retaining these individuals in the armed services, we continue to prefer the 10-year period of eligibility.

Sections 105(a) and (b) of the bill would repeal provisions applicable to education programs for veterans and dependents which presently require vocational schools to report on the number of their graduates who, during the preceding 2-year period, have obtained employment in the field for which the school has provided training.

This reporting requirement was originally enacted in 1974 to prevent and mitigate abuses which had arisen in our education programs. At the time, there were over 600,000 veterans enrolled in vocational training compared with approximately 129,000 enrolled in Fiscal Year 1981, and there were many thousands of courses being offered. Approximately 25 percent of the courses being reported on were disapproved for failure to meet the employment criteria. Our recent disapproval figure was about 3 percent. Thus, we believe the provision has had the salutary effect of reducing the number of courses which are not providing appropriate training. We believe this requirement has served its basic purpose and can now be terminated. The preparation and filing of these reports is very costly, necessitating approximately 256 man-years of effort on the part of schools in Fiscal Year 1981, and an estimated 197 man-years for Fiscal Year 1982. Elimination of this reporting requirement would be in line with the Administration's goal of reducing paperwork, and would save administrative costs on the part of the schools, and the State approving agencies, as well as the VA.

We note that there are certain drafting problems with the text of this section of the measure. We would be pleased to discuss them with your staff.

Section 106(a) of the bill would amend section 1652(b) of title 38 to merely cite a new cross-reference to the Small Business Act. The current provisions are outdated in that the statutory citation is now found in section 7(i) of the Small Business Act (15 U.S.C. § 636(i)) rather than section 402(a) of the Economic Opportunity Act of 1964. This change would update the Code. This provision is identical with a provision contained in our omnibus proposal submitted in February 1982.

Section 106(b)(1) of the bill would amend section 1682(e) of title 38 to modify the entitlement charge for those individuals pursuing programs of education through pure independent study.

In the enactment of Public Law 96-466, the Congress provided that the entitlement charge for the pursuit of independent study courses would be made at one-half the full-time rate where the entire pursuit is by independent study. This has resulted in a situation where a veteran, who is pursuing such study on less than a half-time rate, could have his or her entitlement charged at the half-time rate, thereby reducing the individual's entitlement by more than the actual pursuit.

Section 106(b)(1) differs slightly from the provisions of our omnibus bill in that we would provide that entitlement would not exceed the less than half-time rate. S. 2747, on the other hand, would set the higher entitlement charge at the half-time rate. We would prefer our language in that this would comport with the VA payment rate, which is made at the less than half-time rate.

Section 106(c) of the measure would amend section 1691(c) of title 38 to put a notwithstanding provision at the beginning of that subsection, to assure that educationally disadvantaged servicepersons pursuing high school completion or

GED courses under section 1691, without charge to entitlement, are subject to the 85-15 veteran-dependent enrollment requirement.

In enacting Public Law 96-466, the Congress amended section 1691 to authorize these educationally disadvantaged servicepersons to pursue this type of training, and provided in that section that these individuals would be subject to the 85-15 rule. It did not, however, include a concurrent provision in section 1673(d), which contains the 85-15 requirement.

In our omnibus bill, we have provided for the concurrent cross-reference to 1673(d) which would merely emphasize, in that section, the requirement placed in section 1691(c). S. 2747 would appear to merely reemphasize the exception in 1691(c), but it does not follow our recommendation for placement of the reference in the 1673(d) segment of our law. We believe the S. 2747 provision merely reemphasizes the exception of this training from the 85-15 requirement, but does not cross-reference as we propose. We would prefer our language.

Section 106(e) of the bill would amend section 1798(e)(3) to eliminate the requirement that the Administrator report to the Congress, on a school-by-school basis, on the education loan default rate.

As you are aware, the education loan program of the Veterans Administration has been drastically curtailed. The only individuals who can now qualify for an education loan are those who continue in their programs of education full time after their eligibility expires (and then only for a limited period of time) and those individuals eligible for a loan who are in flight training at the 60 percent reimbursement rate.

Requiring the compiling of default statistics on a school-by-school basis has proved to be administratively costly, and we are unaware of any inquiry being made concerning, or any other use being made of, these individual school statistics. A report on the overall default rate would, of course, be continued, but not on the detailed school-by-school basis.

The provisions in S. 2747 and our omnibus measure are identical on this point.

Section 301 of the bill would amend section 3102(a) of title 38 to reduce, from 2 years to 180 days, the period of time within which a veteran or dependent may request a waiver of the recovery of a VA overpayment. This same section would also allow the Administrator to grant a reasonable period of time for requesting a waiver in cases where the Administrator determines that the notification of the overpayment was not actually received by the individual.

When the 2-year period was originally granted, the attitude, as shown in the legislative history of this provision, was that veterans should be given at least as much time to request a waiver as a Federal employee who has been overpaid. Since that time, however, the VA overpayment problem has become more critical and numerous debt collection provisions have been enacted to ameliorate it.

We believe that allowing an individual 180 days in which to request a waiver is sufficient. This would mean that the time during which a waiver request could be considered would be during a period immediately following notice to the individual of the overpayment, at a time during which events are fresh, memories relatively unclouded, and witnesses more available. The applicant for a waiver would be given a speedier resolution of the matter and the VA would be in a position to provide the supporting documents, witnesses, and explanation while these are still close at hand. This would aid our collection effort by expediting the resolution of these issues.

We believe that actual notice, as contemplated by this proposed language, would be extremely difficult, if not impossible, to determine. Further, it would be costly and cumbersome to administer. For example, during FY 1981 approximately 480,000 initial demand letters were mailed. If these were sent "return receipt requested," it would have cost the Agency $360,000. Moreover, the administrative burden of associating the return receipts with the veteran's file would be extremely labor intensive on an already strained system.

Mr. Chairman, there are two provisions in our omnibus education proposal which have not been included in S. 2747.

First, your measure does not provide for the termination of the correspondence training program now authorized in our education programs.

As you are aware, the Veterans Administration has, over the past several years, advocated termination of the correspondence training program for veterans and eligible spouses. We renew our recommendation for ending this program now.

We continue to maintain the position that correspondence training has not met the objective of providing substantial employment for those trained, and that many individuals have used this program primarily for recreational or avocational purposes.

Over the years, the Congress has reduced the reimbursement rate for this program from the original 100 percent to 90 percent to 70 percent and now to the 55 percent level. In addition, the bar to the VA making payment for this type of training, imposed during Fiscal Year 1982, was removed only recently. We would urge the Congress to take that one final step to terminate the program once and for all. This would represent a fairly substantial saving over the next 5 fiscal years.

Second, we propose to add a new paragraph (3) to section 1790(b) of title 38. This would authorize the Administrator to discontinue all educational assistance for enrollments in a course which the Administrator finds is in serious violation of fundamental statutory approval, or in an educational institution which has failed to adhere to record-keeping or reporting requirements after the school has been afforded a reasonable period of time in which to correct the problem, but has failed to do so.

Currently, where a course fails to meet approval requirements, payments to veterans and dependents continue until remedial action, such as withdrawal of approval, is effected or until evidence of nonentitlement is acquired in each individual case. Payments may be unduly prolonged for various reasons outside the Administrator's control.

The current provision was enacted in Public Law 95-202 and was based upon two cases in which the benefits of all veterans enrolled were suspended based on flagrant violations which called into question the propriety of continued payments.

Benefits subsequently were reinstated for many veterans whose entitlement thereto had been confirmed. The current requirement has the effect of barring the Administrator from discontinuing benefits en masse, regardless of the magnitude or severity of perceived violations, unless there is evidence that each veteran or dependent does not have entitlement to benefits. It also requires the Administrator to concurrently notify VA beneficiaries in any case when action is taken to discontinue their benefits.

Our proposal would modify the requirement to permit discontinuance of benefits to all those enrolled where evidence is available which shows serious violations of school recordkeeping or reporting requirements and the school has been adequately notified and given a reasonable amount of time to correct the deficiencies, but has failed to do so. The same concurrent notice to the veteran or dependent of the impending cessation of benefit payments would be retained. The inability of the VA under existing law to even suspend benefits pending investigation of the effect of noted violations has led to many preventable overpayments. We believe furnishing the school notice and advising the individuals of the impending termination of benefits, together with the basis for such action, would curtail many of the abuses which have occurred.

Mr. Chairman, with respect to title II of S. 2747, these provisions will be covered for you by the testimony today of the Department of Labor. We would, therefore, defer to the testimony of that Department on this title of the measure. There is, however, one provision in that segment of the bill on which we would like to comment, and that is section 203(c).

This section would amend section 2003 of title 38 to direct each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment to cooperate with the VA's vet centers in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance. The VA has always favored maximum cooperation and coordination among all Federal, State, and local government programs that are engaged in assisting veterans in resolving readjustment and employment problems. Currently, in carrying out its responsibility to provide outreach services to veterans, a number of our vet centers are involved in networking with the employment resources of Federal, State, and local governments, including the Labor Department's veterans' employment representatives as now mandated by Congress in paragraph 2 of section 2003. We do not believe the language in section 203(c) is necessary since we are already working closely with the State Veterans Employment officials.

Mr. Chairman, that completes our presentation on S. 2747. I shall be pleased to respond to any questions you or the Members of the Committee may have.

RESPONSE OF THE VETERANS' ADMINISTRATION TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. What is your understanding of the future availability of the money authorized and appropriated for FY 1982 for the targeted delimiting date extension program when the year ends without it being spent?

Answer 1. The FY 1982 Readjustment Benefits appropriation of $1,919,100,000 was based on an amendment submitted in September, 1981, before the enactment of the targeted delimiting date extension. No specific request was made to Congress for money to fund this extension in FY 1982. Rather, the increased obligations would be covered by unobligated balances carried over from FY 1981 and an administrative transfer of funds from the Compensation and Pensions appropriation. The Readjustment Benefits appropriation is a "no year" account and any money remaining unobligated at the end of a fiscal year is carried over into the next year for expenditure at that time.

Question 2. If the so-called "tolling" provision of Amendment No. 1984 were passed, what kind of expense would the VA expect to incur for payments of GI Bill benefits and for vocational rehabilitation?

Answer 2. It is expected that passage of Section 108 of Amendment No. 1984, "TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS," would result in a cost of less than $1 million in any fiscal year. We would emphasize that this is only a rough estimate since no formal review of the various factors affecting costs has been made.

Question 3. How does the VA document the authenticity of an alcohol or drug abuse problem? Would new guidelines have to be established in this area? What criteria are applied to determine that a veteran is ineligible for benefits because of "willful misconduct"?

Answer 3. At the present, no monetary benefits are payable based on alcohol or drug abuse conditions as primary disabilities. Therefore, there are no officially established procedures set up to document these conditions for such purposes. If legislation were enacted which would permit extension of education delimiting dates based on alcohol or drug usage, for example, new guidelines would have to be developed. Due to the nature of these conditions, however, we believe it would be extremely difficult, if not impossible, to develop any generally acceptable, useful guidelines. There are inherent problems here in determining (1) the alcohol or drug condition claimed, (2) whether the claimed condition made training infeasible, (3) the duration of any period of infeasibility for training, and (4) whether the cause of any such infeasibility found has been removed, enabling beneficial use of any extension provided. For example, during the period of claimed incapacity due to substance usage, the veteran would not necessarily have been in contact with any health-care professional or self-help group. Thus, there very likely may be no substantial, credible evidence to establish that training was not possible for long periods of time due to an alcohol or drug condition.

We note that some requests for extensions have claimed incapacitation for educational pursuit due to alcoholism during the entire 10-year delimiting period. Adjudicating such a claim would be time consuming and could require resolution of difficult questions of proof. There may, in fact, be no method of adequately confirming such a contention. The VA, therefore, would have to adjudicate delimiting date extensions on the most tenuous evidence--possibly only a veteran's self-serving statement. This could open the door to widespread abuse in the submission of fraudulent or frivolous claims. Alternatively, the beneficial intent of any legislative liberalization could be frustrated as a result of denials necessitated by the lack of satisfactory evidence to support claims for extensions.

Even where there are records of medical treatment, this would not necessarily be dispositive of the referenced issues. For one thing, there remains a lack of consensus in the medical community as to exactly what constellation of symptoms represent chronic alcoholism, alcohol abuse, problem drinking, acute alcoholism and other commonly used diagnostic labels. Furthermore, it could still be extremely difficult to distinguish periodic excessive drinking or drug-taking episodes, which may not actually result in disablement, from habitual inappropriate use of alcohol or drugs which might impair educational pursuit for a substantial period of time.

The question of whether the claimant has sufficiently recovered from the claimed impairment to make productive use of benefits during an extension may also be problematic. There is a large body of medical opinion, for instance, which holds that recovery from alcoholism or drug dependence is not possible. The problem can be controlled through self-help or medication maintenance. However, the possibility of recurrence is always present.

Concerning the criteria to be applied to determine that a veteran is ineligible for benefits because of "willful misconduct," we would point out that VA regulations currently define willful misconduct as an act involving deliberate or intentional wrongdoing with knowledge, or in wanton and reckless disregard, of its probable consequences. The regulations distinguish between disabilities which, for example, are the primary result of drinking alcoholic beverages and those which are remote, organic, secondary effects. Disabilities acquired as the secondary result of the chronic use of alcohol or drugs are not included in the willful misconduct category because they are not considered the usual and probable effects of such consumption or usage and were not reasonably foreseen by the individual. Therefore, it is now necessary for the VA to determine whether the condition on which the claim for extension is based resulted from the deliberate, excessive use of alcohol or drugs, or constituted a remote, secondary effect of such usage.

Question 4. How would recovery from alcoholism or substance abuse be defined and verified?

Answer 4. We do not believe that recovery from alcoholism or substance abuse can be adequately defined or verified. The conditions can be controlled but this is a far different statement than to say the alcoholic or drug abuser is recovered.

Question 5. What would happen if a veteran were to have a recurring episode of alcoholism or substance abuse during the extension of the time limit to use educational or vocational rehabilitation benefits?

Answer 5. Amendment No. 1984 would include under the extension of benefits for physical/mental disability an alcohol or drug dependence or abuse condition from which the veteran has recovered. If the veteran has a recurring episode, we would have to assume that, at that point in time, he/she can no longer be considered to be recovered. Benefits would be terminated.

RESPONSE OF THE VETERANS' ADMINISTRATION TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. I'd like to call to your attention an exchange of correspondence (copy attached) I have received between Richard N. East of Norfolk, Virginia, and C. L. Dollarhide, Director of the VA's Education Service. The problem about which Mr. East is concerned is the rate at which he is to be permitted to use his VEAP benefits. In this connection, I note that sections 210 and 211 of H.R. 6794, the proposed "Veterans' Employment and Education Assistance Act of 1982", as reported from the House Committee on July 21 attempt to address this problem. I would greatly appreciate your input and assistance in resolving what appears to me to be a truly inequitable situation unanticipated when the 1980 VEAP amendments were enacted in Public Law 96-466. Would you please review the authorizing legislation in chapter 32 of title 38 and the provisions of the House measure, and give us your suggestions for remedial legislation that would be both an equitable and administratively feasible way of dealing with the problem raised by Mr. East and also problems that could arise when large kickers have been contributed by the service branches to individual veterans' accounts. It seems to me that what we need to explore is some new alternative to the current formula in section 1631(a) of title 38 that would provide for a fairer and more workable VEAP monthly payment rate, taking into account the goal that the benefits paid be used for educational purposes.

Your prompt response to this request, so that the Committee can consider remedial legislation in connection with its scheduled August 12 markup, would be most helpful.

May 12, 1982

Director, Veterans Administration
attn. Education Services Director
Veterans Administration
Washington, D.C.

Dear Sir,

The purpose of this letter is to make you aware of problems I have encountered in regard to the Veterans Educational Assistance Program. It is my hope that you may be of assistance to me in resolving these difficulities.

At the commencement of my enlistment I enrolled in the Veterans Educational Assistance Program (VEAP). At the time the maximum contribution was $75.00 per month, to a total of $2700.00. The amount that would be paid to the recipient was determined by dividing the total amount that the member had contributed by the number of months that he/she had contributed, or by 36, whichever was the lesser. Using this formula, the shortest period of time in which one could maximize their fund was 36 months. This put the maximum payment to the recipient at $225.00 per month.

Shortly before I maximized my account at the $2700.00 limit, the maximum monthly contribution was raised to $100.00. This would allow a participant to shorten to 27 the number of months it would take to maximize the fund. Correspondingly, it would raise the amount of payment to a maximum of $300.00 by lessening the number (36 to 27) that one would divide into the total fund to determine the amount of payments.

As I have completed my first two years of school, I am interested in obtaining the maximum benefits in the minimum time. A phone call to the Veterans Administration Office in Richmond resulted in the suggestion that I withdraw my $2700.00 which was credited over a 36 month period, and then, using the new 'lump-sum' provision, redeposit $2700.00, crediting it as 27 payments of $100.00. Since it may take up to 90 days to receive my $2700.00, this may take me past the expiration of my enlistment on July 30 and I would be ineligible for benefits of any kind.

I hereby request authorization to withdraw from my fund the maximum rate of $300.00 per month. Thank you.

Sincerely,

Richard N. East
SEAL Team TWO
USNAB Little Creek,
Norfolk, VA 23521

Copy to:

Chairman, Veterans Affairs Committee,
United States Senate

Chairman, Veterans Affairs Committee,
United States House of Representatives

Department of Veterans Benefits
Washington D C 20420

Veterans Administration

MAY 28 1982

In Reply Refer To:
225B

Mr. Richard N. East
SEAL Team TWO
USNAB Little Creek
Norfolk, VA 23521

Dear Mr. East:

This is in response to your request to change the rate at which VEAP benefits will be paid.

The rate at which benefits are paid is established in section 1631(a)(2) of title 38, United States Code. The monthly payment rate for full-time training is determined by adding all contributions made by the eligible veteran, multiplying the sum by three (to add the U.S. Government's $2 for $1 share), adding any additional contributions ("kickers") made by the eligible veteran's service department, and dividing the sum by the number of months in which contributions were made or by 36, whichever is less. For a veteran who has made 36 or more regular monthly contributions for a total of $2700, with no additional "kickers" added, the total entitlement is $8100 divided by 36. The full-time monthly rate is $225, with $168.75 for three-quarter time training, $112.50 for half-time training and $56.25 for quarter-time training. The law does not provide for any other method to determine the rate of payment; therefore, your request to receive your benefits at $300 per month cannot be granted.

You indicated that you had contacted the Veterans Administration Office in Richmond by telephone regarding your request and they advised you to withdraw your contributions and make a single lump sum payment of $2700, indicating 27 monthly payments of $100 each. First, the Veterans Administration does not have an office in Richmond, except for the Veterans Administration Medical Center; however, the State of Virginia does have a Veterans Affairs Office there. It is most likely that it was someone in this office to whom you spoke. Second, while the information you were given is partially correct, you could not make a single lump sum payment and designate monthly contributions of $100. The maximum monthly amount which can be designated in a single lump sum payment is $75, as provided by section 1622(d). Our Roanoke Regional Office is contacting the State Veterans Affairs Office in Richmond to advise them of the correct information regarding lump sum VEAP contributions.

To achieve the result you want would require that you make at least two lump sum payments. One would be for an amount which could be designated for 27 months at a monthly amount up to $75. A second lump sum could then be made to raise the total contribution to $2700, designating an additional amount for each of the 27 months covered in the first lump sum and bringing the monthly contribution level to $100. However, only one lump sum payment can be made during a calendar month.

You are correct in your assumption that there is insufficient time before your scheduled discharge to receive a refund and make the necessary lump sum payments to obtain $300 monthly payments for 27 months. It is regrettable that you did not seek this information earlier as you would have had time to do this since the law changed to increase monthly contributions levels from $75 to $100. Public Law 96-466 provided for both $100 monthly contributions and for lump sum payments. It was enacted on October 17, 1980, and procedures have been in effect for both provisions since shortly after enactment.

I am sorry my response cannot be favorable; however, the law will not allow the Veterans Administration to make payments to you in the manner you have requested.

Sincerely yours,

C. L. Dollarhide

C. L. DOLLARHIDE
Director, Education Service

Answer 1. The VA supports legislation to provide for accelerated payments under the Chapter 32 program. Section 210 of H.R. 6794 provides an equitable method of providing eligible veterans an opportunity to more fully utilize the Chapter 32 program to assist in meeting the financial costs of their pursuit of high-cost short-term courses by allowing the veteran to receive payments for such courses at a faster rate than the rate otherwise allowed.

Section 211 of H.R. 6794 will allow eligible servicepersons to make lump sum contributions to the Chapter 32 program up to the maximum $100 monthly contribution as opposed to the $75 monthly maximum lump contribution which may be made at the present time. This will permit eligible servicepersons to make the same contribution to the program in a lump sum as they may make through regular monthly contributions.

Question 2. You have proposed to authorize the Administrator to discontinue all educational assistance for enrollments in a course when there is a serious violation of approval requirements or where a school fails to adhere to record-keeping or reporting requirements. In connection with this proposal, your testimony notes at page 15 that "payments may be unduly prolonged for various reasons outside the Administrator's control." Specifically, what are these "various reasons" and why are they outside the Administrator's control?

Answer 2.

Section 1790, 38 USC, presently does not authorize discontinuance of benefit payments even when survey case review establishes overpayments are being made, unless the appropriate State approving agency (SAA) withdraws the school's course approval. The VA does not have authority to require a SAA to withdraw a course approval. Therefore, if, in the opinion of the SAA, an approval should continue, the VA finds itself in a position of knowing unauthorized payments are being made but with no recourse other than to adjust individual veterans' accounts on a case-by-case basis. This does not prevent the continuation of the school's practices which result in further overpayments.

Our administrative experience has shown that unauthorized or unsubstantiated benefit payments have continued for prolonged periods once serious problems have been found at various schools and suspension of payments has not been implemented. A routine compliance survey may expose school practices which cause overpayments to eligible students. To substantiate this conclusion, the case review sample is expanded. If the expanded sample detects the same problems, it is necessary to conduct a 100% audit of school records and a complete review of veterans' claims folders in order to determine appropriate benefit payment adjustments. At large schools this process may take up to two months.

Question 3A. Section 1503(c)(3) of title 38 provides for a delimiting period extension, in certain cases, for a veteran who is in need of services to overcome a serious employment handicap where the extension is necessary to accomplish the purposes of a rehabilitation program. In the case of a veteran who has been prevented from participating in a rehabilitation program because of an alcohol or drug dependence or abuse condition and is seeking an extension under section 1503(c)(3), do you grant the extension without regard to whether a drug or alcohol problem had prevented more timely participation in a chapter 31 program?

Answer 3A.

Yes, an extension may be granted under section 1503(c)(3) without regard to whether a drug or alcohol problem prevented more timely participation because timely participation is not at issue when considering an extension for a veteran with a serious employment handicap. Section 1503(c)(3) is a discretionary provision that allows the Administrator to determine the appropriateness of granting an extension in an individual case of a veteran with a serious employment handicap. This provision is not intended to grant an automatic extension to a special class such as veterans with a drug or alcohol problem, but rather a provision which authorizes the Administrator to carefully consider the merits of each veteran's case.

Question 3B.

Do you, under any other circumstances (and, if so, which), extend under section 1503 the period of eligibility under chapter 31 in the case of a veteran who has been prevented from participating in a rehabilitation program because of an alcohol or drug dependence or abuse condition?

Answer 3B.

An extension of the period of eligibility is not granted under section 1503 solely because an alcohol or drug dependence or abuse condition prevented a veteran from participating in a rehabilitation program under chapter 31. However, in evaluating limitations on employability, subject to determining the existence of an employment handicap under section 1502(2), the effects of an alcohol or drug dependence or abuse condition are considered in the same manner as nonservice-connected disabilities.

Veterans Administration regulations have long held that alcoholism and drug usage are of misconduct origin and, therefore, may not be used as the basis for granting Veterans Administration benefits. This principle is applied to consideration of extension of delimiting dates under section 1503(b)(1). If the sole basis for the extension is claimed to be alcoholism or drug dependence or abuse condition, the extension is not granted. If, however, the alcoholism or drug dependence or abuse condition results in secondary organic disease or disability, the secondary conditions are not considered to be of misconduct origin. The delimiting date could be extended based on these secondary conditions. In addition, if the alcoholism or drug dependence or abuse condition has been diagnosed as secondary to an acquired mental disorder, consideration of the extension can be based on the mental disorder.

Question 3C.

What officials make the decisions regarding delimiting period extensions under section 1503?

Answer 3C.

Decisions regarding delimiting period extensions under section made by the following persons:

1503(b)(1)	Rating Board, Adjudication Division
1503(b)(2)&(3)	Adjudicator, Adjudication Division
1503(c)(1)&(2)	Counseling Psychologist, Vocational Rehabilitation and Counseling Division
1503(c)(3)	Administrator of Veterans Affairs

Question 4. In your discussion of section 301 of S. 2747 -- which would reduce from 2 years to 180 days the period of time for requesting a waiver of overpayment recovery but allow a reasonable extension where notification of the overpayment was not actually received -- you indicate that the extension opportunity would require that the notifications be sent "return receipt requested". You also stated that the administrative burden of "associating the return receipt with the veteran's file would be extremely labor intensive". However, this provision contains no express requirement for the use of return-receipt mail. Nor do I believe any such requirement is implied. Rather, I believe that this provision is simply intended to afford the veteran the opportunity to demonstrate -- despite a record in the VA's files that the notification was mailed -- that he did not receive the notification. For example, the veteran might be able to show that he or she was traveling or had been hospitalized for a long period that began shortly before the notice was mailed and, as a result, did not receive it. I would greatly appreciate any suggestions you may have for modifying the amendment proposed in section 301(2) that would provide appropriate relief for those who do receive actual notice but would not impose undue administrative costs.

Answer 4.

In response to your question and to provide a technical assistance, I have attached a copy of draft language which would address some of the issues raised. First, subparagraph (1) would retain the reduction from 2 years to 180 days the period of time in which the veteran has to request waiver of an indebtedness.

Second, subparagraph (2) would provide the Administrator the authority to extend this period for such time as is reasonable and equitable under the circumstances. This would be done by regulation and would provide the veteran an opportunity to seek waiver where notice was not received due to a variety of circumstances.

Finally, subparagraph (3) would allow the VA a reasonable amount of time to perform the necessary internal changes to comply with the new law.

We have not, as yet, formulated a formal Administration position with respect to this draft language.

TITLE III-MISCELLANEOUS PROVISIONS AND EFFECTIVE DATES

SEC. 301. Section 3102(a) is amended--

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days";

(2) by inserting a comma and "or within such longer period as the Administrator determines by regulation is reasonable and equitable under the circumstances"; and

(3) the amendment made by subsection (2) shall apply only with respect to notifications of indebtedness that are made 180 days after the date of the enactment of this Act.

SEC. 302. Except for section 208(b) and 301(a), the provisions of this Act shall become effective on October 1, 1982.

Question 5A. I have a number of questions and concerns that I'd like to raise with respect to the VA's implementation of the targeted delimiting date extension enacted last year by Public Law 97-72.

In the Administrator's April 8, 1982, response to my March 18 letter regarding the implementation of the extension, he stated that he "believe/s/ that the criteria /for eligibility/ do allow for individualized eligibility determinations." Would you please point to the provisions in your Circular that allow for such individualized determinations?

Answer 5A. DVB Circular 22-81-15 provides in paragraph 6 that each case will be decided on an individual basis by Adjudication personnel. Paragraph 5 requires that each claimant's individual educational and employment history be fully developed. In light of our special review of the claims denied, we are instructing our field stations to individually review each claim which is identified as having been denied in accordance with revised eligibility criteria.

Question 5B(i). It seems to me that the process for making determinations is not truly individualized since if the veteran fits into one of three categories, he or she is automatically determined to be ineligible. Perhaps it would help me to understand your position if we examined a specific example. Let's take the example of an unemployed veteran who 12 years ago, prior to entering active service, was employed as a management trainee in a shoe company.

In what specific ways do you believe the DVB Circular provides for an "individualized determination" in this case?

Answer 5B(i).
The veteran would be requested to provide a brief description of all types of work he or she performed, along with a description of all employment training received. The information provided is reviewed on a case by case basis in accordance with the guidelines set forth in DVB Circular 22-81-15, paragraph 6, to determine whether the veteran is unskilled. Revised guidelines resulting from our recently completed special review of denied claims will be issued to field stations.

Question 5B(ii). Under your Circular, specifically page 4, section 6(b)(1), wouldn't the veteran be ruled automatically ineligible by virtue of that over 12-year old management trainee training?

Answer 5B(ii).
A veteran who was employed as a management trainee in a shoe company prior to military service will not have his/her claim denied. Vocational preparation attained prior to entering the military will not preclude eligibility under our new guidelines.

Question 5C(i). What is the basis for this conclusion, as stated in the Administrator's April 8 letter, that he does "not believe it was the intent of Congress to provide a general extension of the GI bill to veterans ... who are experiencing employment difficulties that are more closely related to the Nation's economic problems in general than with their military service?

Answer 5C(i). In recommending a one-time 2-year extension of the delimiting period for certain Vietnam era veterans, the House Veterans' Affairs Committee reviewed the study prepared for the VA pursuant to PL 95-202, "Legacies of Vietnam: Comparative Adjustment for Veterans and their Peers", which noted that veterans in general have less education and hold lower paying jobs than non-veterans. The Committee also noted that during the first quarter of calendar year 1981, the unemployment rate for Vietnam era veterans, ages 25-29, was 10.9 percent, higher than for their nonveteran counterparts. Because the delimiting date extension provision in PL 97-72 is similar to that in HR 3423, it is clear that Congress intended to remedy the situation where a group of individuals has been placed at a disadvantage with respect to employment as a result of their military service.

Question 5C(ii). What is the basis for this conclusion, as stated in the Administrator's April 8 letter, that he does "not believe it was the intent of Congress to provide a general extension of the GI bill to veterans ... who are experiencing employment difficulties that are more closely related to the Nation's economic problems in general than with their military service"?

Please provide a specific reference to the legislative history of this extension provision that supports this statement.

Answer C(ii). House of Representatives Report No. 97-78, "Veterans' Training and Business Loan Act of 1981", pp. 3, 4, and 5.

Question 5D. In line with this assertion in the Administrator's letter, is it your position that your current criteria result in assisting veterans whose employment difficulties are related to their military service rather than to general economic conditions -- even though it appears that the Circular provides no means by which to determine or assess the extent to which military service might have adversely affected a veteran's employability?

Answer 5D. Although it is not specifically stated in the Circular, the Circular as a whole is aimed at helping those whose employability was and is adversely affected by military service. It does this by examining results rather than the events that happened to the applicant in the military.

In using this procedure we are merely using the rationale which underlies the whole G.I. Bill itself. The law assumes that people eligible under chapter 34 need to have lost educational opportunities restored because their careers were interrupted or impeded by reason of active duty. It is not required nor is it necessary that each applicant provide the VA with a summary of the events that occurred while he or she was on active duty in order to prove that military service adversely affected their careers. We can assume that it did, by the fact that they need training.

Similarly, we can assume that a Vietnam Era veteran, who more than 10 years after discharge still has not obtained a high school diploma or equivalent or who has never obtained employment in other than entry level jobs has been adversely affected by serving his or her country.

On the other hand, a veteran who held a skilled job after discharge and has recently lost it, achieved readjustment after military service, and is a victim of the sluggish economy.

Question 5E. In your fiscal year 1983 budget documents, you indicated that an estimated $48.6 million would be expended for the targeted delimiting date extension in fiscial year 1982 and that your fiscal year 1983 request includes $68.7 million for the extension. What number of veterans participating under the extension are assumed in these estimates for fiscal years 1982 and 1983.

Answer 5E.

The $48.6 million in fiscal year 1982 represents training payments for 44,300 veterans for the nine month period from January 1 to September 30, 1982. The$68.7 million in fiscal year 1983 represents payments for 47,500 veterans. Our estimates were overly optimistic as far fewer veterans than anticipated have applied for the delimiting date extension.

Question 5F. Mr. Nimmo's April 8 response stated that the exclusion of correspondence training under the extension was based on the prohibition of spending for such training contained in the HUD-Independent Agencies Appropriations Act for FY 1982.

Since section 5 of Public Law 97-174, enacted on May 4, 1982, overrode the prohibition in the Appropriations Act, have you revised the Circular to remove the correspondence training exclusion?

Answer 5F. On June 8, 1982, DVB Circular 22-81-15, Change 2, was published to allow the payment of VA education benefits for correspondence training pursued during a delimiting date extension under PL 97-72 using the same criteria as other vocational training.

Question 6. The other provision of Amendment No. 1984 would permit the VA Administrator to extend, or "toll", the GI Bill and vocational rehabilitation delimiting dates in the cases of certain veterans who have suffered from alcohol or drug dependence or abuse conditions. I want to make certain that you understand that these provisions are in no way intended to conflict with the VA's interpretation of "willful misconduct" for purposes of paying disability compensation. Our Amendment is drafted so as not to conflict with or even relate to the manner in which such conditions are reviewed and evaluated for the purpose of compensation or pension. Is there still some difficulty in this regard?

Answer 6.

We believe that the proposals to extend education delimiting dates based on alcoholism and drug abuse present a number of insoluble difficulties. The first problem is that of setting a precedent in considering alcoholism and drug abuse in connection with benefits programs. Such a precedent would inevitably lead to pressure to also consider these conditions under other programs such as compensation and pension. A second major problem is that of determining the period during which the veteran was prevented from training due to the condition and the evidence required to establish the period of infeasibility. During the period during which training was most likely impossible the veteran would not have been in contact with any health care professional or self-help group. There would be absolutely no evidence, other than the veteran's own statement, as to the beginning and ending dates of infeasibility. The veteran could well allege that training was not possible due to alcoholism or drug abuse for a very long period of time. There would be no method of confirming this allegation. It would appear that the proposals, if enacted, would require the VA to extend the delimiting date for long periods of time based solely on the veteran's self-serving statement.

A third serious problem is that of determining whether the veteran is now in fact able to enter training and is in fact "recovered." There is a large body of medical opinion which holds that recovery from alcoholism or drug abuse is not actually possible, that it is only possible to control these conditions. Requiring that the veteran be recovered before the extension may be granted appears to be a requirement that can be neither defined nor verified. A requirement that treatment must have been received from a person licensed to provide such treatment appears to also be undefinable and unverifiable. There are in fact no such licensening procedures. The Administrator would be unable to define by regulation which programs or therapists would qualify under the proposed legislation since no criteria exist in this area. Even if it could be determined that a program such as Alcoholics Anonymous would qualify, such programs do not keep attendance records and it could not be verified whether a particular veteran had in fact participated in the program, much less whether he had recovered.

We do not believe that it is possible to adequately define eligibility requirements or to draft regulations to implement extension of delimiting dates based on alcoholism or drug abuse.

Question 7A. Do you agree that a clear distinction can be made between the desirability of providing an educational opportunity to someone who has recovered from a past drug or alcohol problem, on the one hand, and paying benefits to someone for current drug and alcohom dependence, on the other hand?

Answer 7A.

Any liberalization in determinations involving alcoholism or drug abuse in connection with delimiting date extensions in education programs will result in a situation in which a particular condition (e.g. alcoholism) is considered the result of "willful misconduct" only for certain purposes. This could lead to pressure to consider these conditions compensable under other programs administereed by the VA (e.g. compensation and pension).

Question 7B. Do you disagree with the position that our Committee took last year, in reporting S. 921, that GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veterans recovering from alcohol or drug problems?

Answer 7B.

The position that educational assistance would be beneficial to persons recovering from drug or alcohol dependence is laudable. However, the administration of such a liberalization would involve practicalities which bring into question whether the VA could adequately define eligibility requirements or draft regulations to implement such a liberalization and accomplish the statutory objective.

There is medical opinion which holds that recovery from alcoholism or drug abuse is not actually possible; that it is only possible to control these conditions. Requiring that the veteran be recovered before an extension may be granted appears to be a requirement that can be neither defined nor verified. If treatment must have been received, what constitutes the requisite treatment? There are many types of treatment programs available which vary considerably. There may be self-help, religious counseling, medical treatment, medication maintenance, family therapy, or all or any combinations of these. What length of treatment is required to consider an individual recovered? How is the VA to establish the length of the period when training was most likely impossible due to alcohol or drug dependence? Many individuals do not seek help while they are dependent on drugs or alcohol. The VA would be in the position of relying on the veteran's statement or statements from family, friends, etc., attesting to the period that training was not possible. At best, such statements are unreliable and unverifiable.

Question 7C.

You've indicated that you are still reviewing the provisions of Amendment No. 1984. When do you expect to give us your position?

Answer 7C.

A separate white paper has been prepared in response to this question and will be furnished separately.

Question 8A.

On another topic, it is my understanding that several months ago, the VA received a request from the ACTION Agency for funding for the Vietnam Veterans Leadership Program.

What is the status of that request?

Answer 8A.

The ACTION Agency has withdrawn its request for funding of the Vietnam Veterans Leadership Program.

Question 8B.

Is the VA contemplating providing funding for this program and, if so, under what statutory authority?

Answer 8B.

Not applicable.

Chairman SIMPSON. Now, please, Larry Korb, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics. And do you have any persons present with you? You are all by yourself.

Dr. KORB. Yes. Since you are alone, I thought I could be.

Chairman SIMPSON. Well, we'll match up then and see what happens. All right, Larry, go right ahead.

TESTIMONY OF DR. LAWRENCE J. KORB, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER, RESERVE AFFAIRS, AND LOGISTICS, DEPARTMENT OF DEFENSE

Dr. KORB. Mr. Chairman, I appreciate the opportunity to appear before the committee and present the administration's position on the extension of the 1989 delimiting date for the current GI bill.

As I testified earlier this year before a joint House Veterans 'Affairs and Armed Services hearing, the administration supports extending the 1989 delimiting date until 10 years until after the member's discharge or release from active duty. We prefer the 10-year extension because this time period parallels the delimiting dates for the GI bill and the veterans' educational assistance program.

There are presently over 800,000 service members in the active force who are eligible to use the GI bill. All of these entered before 1977. Many will reach their regular retirement or separation in this decade and take advantage of these post-service education benefits. At the expiration of the present program in 1989 there will still be a sizable number of members who could use these benefits if they are available.

Based on the most recent utilization rates for these participants, most of whom will have served at least 20 years, we would expect approximately 37,000 participants in 1990. This level would hold almost steady for 10 years and then quickly decline for another 10 years.

The cost of benefits for these veterans in 1990 is estimated at approximately $70 to $80 million per year for the first decade after 1990. All of these post-1990 users could leave the Armed Forces now to use their benefits. The cost to recruit and train replacements for members who leave prematurely is quite high and replacement of senior personnel with more junior personnel reduces the effectiveness and readiness of the force.

All the military departments believe that if we do not extend the 1989 date, some service members will elect to separate earlier than desired in order to use their earned educational benefits. The Department is unable to document this fact precisely, but many service members have expressed their concern about the delimiting date.

Survey evidence indicates that 41 percent of second-term personnel leaving the Navy report "losing GI bill benefits" as one of the most important factors in their decision to leave the service. The Department wishes to address this concern. We also believe that a service member should not be penalized by losing earned benefits because of a longer term of service to the Nation.

Because of the possible negative retention impact for all services and the fact that this benefit has already been earned by members, many in times of war or conflict, the Department of Defense supports the committee's provision to S. 2747 that extends the 1989 delimiting date.

As I stated earlier, we prefer a straight 10-year extension rather than the committee's proposed 2-year to 6-year extension.

I appreciate the committee's continued interest in and concern for programs that affect active and retired military members. My staff and I look forward to working with you on this matter and other matters of mutual concern.

Thank you.

Chairman SIMPSON. Thank you very much for that testimony. We appreciate it.

Did you have an opportunity to review the CBO report to the committee prior to your testimony?

Dr. KORB. Yes, I did, Mr. Chairman.

Chairman SIMPSON. And you project costs on this modification about $75 million a year averaging $2,000 a year per person. Can you tell us which occupations are "critical" and give the committee examples of how that modification of the GI bill might produce the results you require?

Dr. KORB. The way the present law exists a person would have to get out by 1985 in order to complete 4 years of college by 1989. We are beginning to get a lot of people who came in prior to 1977 who, at this point in their careers with 10 to 11 years of service have experience but might get out to use those benefits. They feel that they have them coming to them, they feel this was a condition of their enlistment.

And in losing a person like that, for example a petty officer in the Navy who gets out at that point in his career with 10 to 11 years, you have to bring in about 5 or 6 people to replace that person just to get them up to that particular gate. So to lose a person at that point in his career we feel would be not only expensive in terms of the replacement cost but also could impact on readiness.

As you know, one of the problems that this administration inherited when we came into office was the critical shortage of people in the middle management area. And so what we would be seeing just as we are beginning to cure it by 1985 is that this problem would be exacerbated by people leaving to use their education benefits.

Chairman SIMPSON. You cite the results of a Navy questionnaire to support a theory; are there other data you rely on besides the results of that Navy questionnaire to assist you in estimating how many persons now eligible are likely to actually leave to use their GI bill benefits? How many do you estimate will actually leave?

Dr. KORB. It is very difficult to estimate because we are talking about what might happen in 1984 or 1985. We would have to make assumptions now about the state of the economy, for example. We would have to make assumptions about the current international situation so it is very difficult. But I do know that every place that I go and the Secretary goes and several of your colleagues go this is an issue that is raised by our middle management people.

I would say that of the issues raised to me as I have toured our bases in the United States and around the world, this ranks about the highest when you meet with groups of enlisted people.

It's very hard to predict because it may be that if a person looks at the economy at that particular time in the future he may decide to stay in or leave. But we do know that extending the delimiting rate will have a tremendous psychological impact. It will tell that person that he can decide whether or not to stay in the military knowing that whatever he does, the benefit is still there if he wants it. And given the cost which we estimate, it is not a great cost to pay for that type of insurance. We don't have precise data because we basically have to model it based on a lot of assumptions.

Chairman SIMPSON. If it's so that the use of the bonus pay has made a significant improvement in the rate of retention of certain naval personnel, is that true?

Dr. KORB. No doubt about that, Mr. Chairman. The actions taken by the Congress, for example, to give what we call zone C bonuses—that is, to allow people on a third reenlistment to get a bonus—have had a tremendous retention impact, as have the changes that Congress enacted in the pay system.

I would say that without those changes this particular provision probably would be even more critical. But it still is very critical. What we are afraid of is that just as we would recover by the middle of this decade from the losses in experienced personnel that occurred in the last decade, this type of thing could make that problem come around again.

Chairman SIMPSON. Well, naturally I think that all of us are interested in seeing that the critical skills are there and are met and retained. I guess my question is, if a service person has this so-called critical skill, is it really likely that he is going to leave the service for further education when his skill is so very marketable on the outside? Is he not more likely to leave simply for better pay? And in that situation, wouldn't a bonus be more appropriate to retain such a person?

Dr. KORB. We don't advocate taking away bonuses in order to pay for this. I think, as was mentioned in the testimony of the preceding witness, the services are so concerned about this particular 1989 situation that they are willing to pay for this out of the Department of Defense budget. That's how strongly the services feel about this for their people. But we would not advocate replacing this with a bonus.

Chairman SIMPSON. And that right there, that decision is a variation from your previous position when you first looked at the package and seeing DOD take it on there was some reluctance. But now you feel it is that critical?

Dr. KORB. Yes, it is that critical.

If I might, Mr. Chairman, I think the real thrust of this amendment is psychological. It will tell the service person, "Look, you are not going to be penalized in this particular area for having stayed in the service." And remember, a lot of these people will have been engaged in very, very tedious types of assignments—long periods of deployment in the Indian Ocean and in Europe—and we are saying to them, "Look, this will still be there if you want it and want to make use of it."

I think psychologically the benefits would far outweigh the estimated costs of this program.

Chairman SIMPSON. I thank you. I have some further questions. I will submit those in writing along with those of other members of the committee. And thank you very much for your insights.

Dr. KORB. Thank you very much, Mr. Chairman.

Chairman SIMPSON. Thank you, Larry.

[The response of the Department of Defense to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, follows:]

RESPONSE OF THE DEPARTMENT OF DEFENSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question. Why does the Department of Defense still wish to support the proposed GI Bill extension when several studies have suggested that reenlistment bonuses to selected individuals in scarce manpower areas would be far less expensive and far more effective?

Answer. The Department supports the GI Bill extension for the following reasons: (1) members who have established their benefits through Vietnam-era service should not be penalized by an arbitrary cut-off date; (2) the extension would eliminate forcing a member to terminate service early in order to use the benefit; and, (3) those who have chosen the military as a career should not lose earned benefits because of this choice. The Department estimated that the cost of the extension would be approximately $70 to $80 million per year for the first decade after 1990.

Chairman SIMPSON. Now, Mr. Bill Plowden, please, Assistant Secretary of Labor for Veterans' Employment, accompanied—well, I will let you introduce those who are accompanying you, Mr. Plowden.

Yes, good morning, Bill. How are you?

TESTIMONY OF WILLIAM C. PLOWDEN, JR., ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT, DEPARTMENT OF LABOR, ACCOMPANIED BY LAWRENCE H. BRINKER, EXECUTIVE ASSISTANT TO THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT; AND JIM MARION OF THE SOLICITOR'S OFFICE

Mr. PLOWDEN. Good morning, Mr. Chairman.

Mr. Chairman, it is a pleasure to present myself before this committee, and I have with me my executive assistant, Mr. Larry Brinker, to my right, and Mr. Jim Marion of the Solicitor's Office over on the far side.

Mr. Chairman and members of the committee, I am pleased to have the opportunity to appear before you today to discuss S. 2747, a bill which would make changes in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor.

Mr. Chairman, those of us who are charged with the responsibilities for administering veterans employment programs are keenly aware that unemployment remains a serious problem for our veterans. In the first half of 1982, unemployment for Vietnam-era veterans 25 to 39 years of age has remained at or above 9 percent.

We agree with the chairman that veterans unemployment is a national responsibility. We accepted that responsibility and appreciate the efforts of this committee in introducing legislation intended to strengthen procedures to assist us to fulfill our responsibilities and commitment to our veterans.

Mr. Chairman, I would also like to thank you and your colleagues for the special interest and initiative you have shown in the veterans employment programs and their relationship to job training. Mr. Chairman, we wholeheartedly agree that it is important that veterans be served by the national training and employment programs.

Before discussing the provisions of this bill, I would like to mention several administrative improvements that have taken place within the Office of the Assistant Secretary which will bring greater efficiency to our programs. The reorganization of this office has been submitted and should be approved by the Secretary very shortly. I have provided committee staff our new organizational chart along with mission and functions statements for the new offices. I am very pleased with the prospects for administrative and operational improvements that I think will be gained through this reorganization.

Our exercise of other important administrative actions has been dependent on the receipt of our badly needed urgent supplemental. We are now attempting to fill all of our vacant positions and our field staff is diligently trying to make evaluation and technical assistance visits which were postponed for lack of travel funds.

In regard to the disabled veterans outreach program, the Secretary has approved transfer of all DVOP responsibilities to my office. We are currently effectuating this transfer.

We are also striving to improve our liaison with veterans' service organizations. I have recently established a biweekly information mailing and am establishing a regular monthly meeting for veteran organizations. We have also reinstituted the Secretary's Committee on Veterans' Affairs and will schedule a meeting in early September.

I mention these actions, Mr. Chairman, to point out that much learning, time and effort have gone into establishing what I think is a solid foundation from which we can continue good programs, redirect where necessary, and launch new initiatives.

Because of the limited time I will address only the major provisions of S. 2747, as my written statement contains more detail on these.

Section 203 includes a requirement that full time clerical personnel for State Directors of Veterans' Employment Service be Federal employees subject to civil service and classification law. The section also broadens the eligibility for State and Assistant State Directors for Veterans' Employment by providing for appointment of individuals who have been Assistant State Directors for Veterans' Employment in any State, but only if there is no eligible veteran available for appointment who meets the established requirements.

The section further adds responsibilities for the SDVE's and assistants to supervise job listings, referrals, and timely resolution of complaints under section 2012 of title 38, and to cooperate with employers and appropriate Veterans' Administration staff in assisting veterans enrolled in or having completed training under chapter 31 of title 38 and other veterans requiring employment assistance.

Mr. Chairman, concerning coordination, we do not believe the provision is necessary to have in law since we already coordinate efforts with the VA, other agencies, and employers and we will continue to work closely with them.

Concerning the broadened eligibility requirements for appointment to SDVE's and assistant positions, I am in agreement with several veteran organizations resolutions which are not in favor of changing the current requirements. However, if the provision becomes law, I do not see that the changes will affect current hiring patterns.

Section 204 makes several technical and conforming amendments to the disabled veterans program which we support. The amendment allowing a waiver to the limitation of the number of DVOP staff that could be stationed in job service offices is very welcome. This will allow us the needed flexibility to place DVOP staff where they can be of most assistance to veterans. I again point out, Mr. Chairman, that we are transferring the DVOP to my office.

Section 208 adds an annual reporting requirement for Federal contractors of the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractors by job category and hiring locations.

Mr. Chairman, we are more than aware of the need for a tool by which we can evaluate the Federal contractor job listing program and other contractor provisions of chapter 42. We have been meeting with Office of Federal Contract Compliance staff on this very issue. Contractors already provide this kind of information by race and sex on an annual basis. This reporting addition would certainly be of greater assistance than the once required quarterly report.

Section 209 amends section 2025 of title 38 by providing that the provisions of chapter 43, veterans' reemployment rights, be carried out through the ASVE. This would require transferring the veterans' reemployment rights program to the Office of ASVE.

Secretary Donovan has requested an in-depth study on transferring the veterans reemployment rights program to the ASVE. The study will focus on cost and overall program and management effectiveness. The study should be completed certainly within 3 months.

Mr. Chairman, I believe that the basic organizational decisions as to where in the Department a particular agency would be most effective should be left to the Secretary. And that is the reason he has initiated this study so that we could be dead sure that we will improve the situation rather than hurt it.

Mr. Chairman, I hope these comments will be of assistance to you and the committee as you continue your work to develop meaningful and effective legislation to assist our Nation's veterans. That concludes my formal statement and I will be pleased to answer any questions you may have, sir.

Chairman SIMPSON. I thank you very much, Mr. Plowden. It's a pleasure to have your testimony. I believe this is your first appearance in your new capacity before the committee and it's good to have your views.

Mr. PLOWDEN. Thank you, sir.

Chairman SIMPSON. Can you share with the committee some samples of any written central office goals or objectives that have been developed for your programs which are sent out nationwide? How do you communicate your own guidelines to the people in the field, which we know is very important in your task?

Mr. PLOWDEN. We do this through our regional directors, sir. We have regional field people that communicate with us daily by telephone and by correspondence; they give direction for our goals and objectives.

Chairman SIMPSON. But you have written goals so that they know what is expected of them or objectives developed, that type of thing?

Mr. PLOWDEN. Yes, sir.

Chairman SIMPSON. Let me ask, too, you have opposition to the provision of S. 2747 which requires the issuance of regulations by the Assistant Secretary for Veterans' Employment. Can you give us some more concrete reasons for opposing that provision? Elaborate on that a bit.

Mr. PLOWDEN. As far as the regulations are concerned, sir, we are already charged by law to do this. And we don't really feel that the regulations are necessary.

Chairman SIMPSON. That is the single reason?

Mr. PLOWDEN. Yes.

Chairman SIMPSON. We do not share, I think, the view that it is a duplication. We think it is a clarification. But that is your principal view, is that?

Mr. PLOWDEN. Yes, that's the only thing. Yes.

[Subsequently, the Department of Labor submitted the following information:]

[Samples of some very old regulations were furnished to the committee; only one example has been printed for the record as an indication of how outdated the regulations are.]

federal register

FRIDAY, JUNE 25, 1976

PART IV:

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

◆

AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Title 41—Public Contracts and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60–250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Revision

On December 3, 1974, Congress enacted the Vietnam Era Veteran's Readjustment Assistance Act of 1974, which amends the Vietnam Era Veteran's Readjustment Assistance Act of 1972. The amendments augment the mandatory job listing requirement for government contractors in the 1972 Act by requiring government contractors to take affirmative action to employ and advance in employment disabled veterans and veterans of the Vietnam era. Contractors continue to be required to list all their job openings with appropriate state employment services and to file quarterly reports regarding their employment of disabled veterans and veterans of the Vietnam era. The amended Act also raises the jurisdictional amount of covered contracts to $10,000. Responsibility for administration and enforcement of §-402 of the Act is delegated to the Department of Labor.

To implement the amendments contained in the 1974 Act, the Department of Labor on October 22, 1975, proposed amendments to 41 CFR Part 50–250 (now redesignated as 41 CFR Part 60–250. Proposed amendments had been published earlier, on February 18, 1975, (40 FR 6982) regarding the mandatory listing requirement and jurisdictional amount. The Department has received and considered comments on these proposals. These regulations implementing the Vietnam Era Veterans Readjustment Assistance Act of 1974 are substantially similar to regulations which amended 20 CFR Part 741, (redesignated 41 CFR Part 60–741) implementing section 503 of the Rehabilitation Act of 1973 published on April 16, 1976. Since 41 CFR Part 60–741 is applicable to all handicapped individuals, both veterans and nonveterans, those regulations are applicable to a number of the persons also covered under this 41 CFR Part 60–250, but will not be applicable to veterans generally. Some of those provisions, therefore, were not repeated in this regulation because they do not relate to or have particular significance for veterans. For example, this regulation does not repeat the suggestion contained in 41 CFR Part 60–741 that contractors use photographs of handicapped persons in their brochures and advertising, since veterans would not be identifiable as such in photographs, but most handicapped persons are clearly identifiable. Thus where there are distinctions between the two regulations, it is in recognition of a somewhat different universe served by each statute. Accordingly, this regulation:

1. Adds definitions of disabled veterans and veterans of the Vietnam era. Although it is not expected to occur often, it is possible that the different statutory definitions of disabled veteran and handicapped individual could result in disabled veterans being covered under one act but not the other, depending upon the nature of the disability and the percentage of disability;
2. Expands the affirmative action clause to incorporate the mandatory listing requirements originally published in the Manpower Administration's (now known as the Employment and Training Administration) proposed regulations on February 18, 1975 (40 FR 6982);
3. Incorporates particular affirmative action steps applicable to recruiting disabled veterans and veterans of the Vietnam era;
4. Limits the uses for which an employer may consider a covered veteran's military papers to those which are job related;
5. Specifics in accordance with the Vietnam Era Veterans' Readjustment Assistance Act of 1974 that veterans' complaints shall be filed with the Veterans' Employment Service;
6. Requires State employment services to give veterans priority in referral in accordance with 38 USC 2012; and
7. Requires contractors to retain at each establishment records of jobs listed with State employment services and to file quarterly reports regarding their employment practices.

In addition, this regulation differs from the existing mandatory listing regulations at 41 CFR Part 50–250 and the proposal of February 18, 1975, by covering subcontractors below the first tier, and by omitting the section in the original proposal to require Federal departments and agencies to list their job openings. That section will be republished separately. The change in first-tier coverage is based upon the legislative history, which specifically states that all subcontractors are intended to be covered. See Cong. Rec., Oct. 11, 1974, S. 19037.

In view of the fact that responsibility for enforcement of section 402 of the Vietnam Era Veterans Readjustment Assistance Act has been placed in the Office of Federal Contract Compliance Programs and all other OFCCP regulations are contained in Title 41 CFR, Chapter 60, for administrative convenience and clarity the regulations governing the affirmative action obligations of contractors and subcontractors for disabled veterans and veterans of the Vietnam Era formerly found in 41 CFR Part 50–250 are redesignated as Part 60–250 of 41 CFR and are revised as follows:

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

Sec.
60–250.1 Purpose and application.
60–250.2 Definitions.
60–250.3 Coverage and waivers.
60–250.4 Affirmative action clause.
60–250.5 Applicability of the affirmative action program requirement.
60–250.6 Affirmative action policy, practices and procedures.
60–250.7 Determination of disability
60–250.8 Reserve.
60–250.9 Labor unions and recruiting and training agencies.

Subpart B—General Enforcement and Complaint Procedure

60–250.20 Subcontracts.
60–250.21 Adaptation of language.
30–250.22 Incorporation by reference.
60–250.23 Incorporation by operation of the Act and agency regulations.
60–250.24 Duties of agencies.
60–250.25 Evaluations by the Director.
60–250.26 Complaint procedures.
60–250.27 Noncompliance with the affirmative action clause.
60–250.28 Actions for noncompliance.
60–250.29 Formal hearings.
60–250.30 Notification of agencies.
60–250.31 Contractor ineligibility list.
60–250.32 Disputed matters related to the affirmative action program.
60–250.33 Responsibilities of state employment services.

Subpart C—Ancillary Matters

60–250.50 Reinstatement of ineligible contractors and subcontractors.
60–250.51 Intimidation and interference.
60–250.52 Recordkeeping.
60–250.53 Access to records of employment.
60–250.54 Rulings and interpretations.

AUTHORITY: Sec. 503(a), Pub. Law 92–540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by Sec. 402, Pub. Law 93–508, 88 Stat. 1593 (38 U.S.C. 2012).

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60–250.1 Purpose and application.

The purpose of the regulations in this Part is to assure compliance with section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this Part apply to all government contracts and subcontracts for the furnishing of supplies or services or for the use of real or personal property (including construction) for $10,000 or more.

§ 60–250.2 Definitions.

"Act" means the Vietnam Era Veterans Readjustment Assistance Act of 1974, Public Law 93–508, as it amends 38 USC 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1972.

"Affirmative action clause" means the contract provisions set forth in § 60–250.4.

"Agency" means any contracting and/or compliance agency of the government.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his or her designee.

"Compliance agency" means any agency which the Director requests to conduct investigations and such other responsibilities in connection with the administration of the Act as the Director may request, as appropriate, including the responsibility to ensure that contractors are fully cognizant of their obligations under the Act and this Part and to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this Part.

"Construction" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any government contract.

"Contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Director" means the Director of the Office of Federal Contract Compliance Programs of the United States Department of Labor.

"Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

"Government" means the government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally-assisted contracts.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Person" means any natural person, corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract, and, for the purposes of Subpart B of this Part, includes any person who has held a contract subject to the Act.

"Qualified disabled veteran" means a disabled veteran as defined in § 60–250.2 who is capable of performing a particular job, with reasonable accommodation to his or her disability.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" as used in paragraph (1) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his or her designee issued pursuant to the Act.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purpose of Subpart B of this Part, any person who has held a subcontract subject to the Act.

"United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

"Veteran of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1975, and (2) who was so discharged or released within 48 months preceding the alleged violation of the Act, the affirmative action clause, and/or the regulations issued pursuant to the Act.

§ 60–250.3 Coverage and waivers.

(a) *General.*—(1) Transactions for less than $10,000. Contracts and subcontracts for less than $10,000 are not covered by the Act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) Contracts and subcontracts for indefinite quantities. With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $10,000. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order is $10,000 or more. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) Work outside the United States. The requirements of the affirmative action clause are waived with respect to contracts and subcontracts with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) Contracts with state or local governments. The requirements of the affirmative action clause in any contract or subcontract with a state or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) Facilities not connected with contracts. The Director may waive the requirements of the affirmative action clause with respect to any of a prime contractor's or subcontractor's facilities which he or she finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor or subcontractor.

(b) *Waivers.*—(1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Director, may waive the application to any contract or subcontract of any part of or all the affirmative action clause when he or she deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Director, may also grant such waivers to groups or categories of contracts or subcontracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of the Act.

(2) *National security.*—Any requirement set forth in the regulations in this Part shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that its award

without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.*—When a waiver has been granted for any class of contracts or subcontracts under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Director may withdraw the waiver for a specific contract or subcontract or group of contracts or subcontracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–250.4 Affirmative action clause.

Each agency and each contractor and subcontractor shall include the following affirmative action clause in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

✓ State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring loctaion in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 USC 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d) and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 60–250.5 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract every government contractor or subcontractor holding a contract of $50,000 or more and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60–250.6 of this Part. This program may be integrated into or kept separate from other affirmative action programs of the contractor. Contractors presently holding government contracts shall update their affirmative action programs within 120 days of the effective date of this Part.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The full affirmative action program shall be available for inspection to any employee or applicant for employment upon request. The location and hours during which the program may be obtained shall be posted at each facility.

(d) The contractor shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Act and Regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation (an acceptable form for such an invitation is set forth in Appendix A attached). Nothing in this section shall preclude an employee from informing a contractor at a future time of his or her desire to benefit from this program. Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

§ 60–250.6 Affirmative action policy, practices and procedures.

(a) *General requirements.*—Under the affirmative action obligation imposed by the Vietnam Era Veterans Readjustment Assistance Act of 1974, contractors are required to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era at all levels of employment, including the executive level. Such action shall apply to all employment practices, including, but not limited to, the following: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship and on-the-job training programs under 38 USC 1787.

(b) *Proper consideration of qualifications.*—Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known disabled veteran applicants and Vietnam era veteran applicants for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. In determining the qualifications of a covered veteran, the contractor shall consider only that portion of the military record, including discharge papers, relevant to the specific job qualifications for which the veteran is being considered. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this Part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the government. (The appendix attached is an example of an appropriate set of procedures. The procedures in appendix B are not required and contractors may develop other procedures which are appropriate to their circumstances.)

(c) *Physical and mental qualifications.*—(1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to ensure that, to the extent qualification requirements tend to screen out qualified disabled veterans, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification requirements tend to screen out qualified disabled veterans, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans and regarding accommodations; and

(ii) First aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be informed.

(d) *Accommodation to physical and mental limitations of employees.*—A contractor must make a reasonable accommodation to the physical and mental limitations of a disabled veteran unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) business necessity and (2) financial costs and expenses.

(e) *Compensation.*—In offering employment or promotions to disabled veterans, and veterans of the Vietnam era, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(f) *Outreach, positive recruitment, and external dissemination of policy.*—Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified disabled veterans and veterans of the Vietnam era. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should develop internal communication of its obligation to engage in affirmative action efforts to employ qualified disabled veterans and veterans of the Vietnam era in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) The contractor should develop reasonable internal procedures to ensure that its obligation to engage in affirmative action to employ and promote qualified disabled veterans and veterans of the Vietnam era is being fully implemented.

(3) The contractor should periodically inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans and veterans of the Vietnam era.

(4) The contractor should enlist the assistance and support of all recruiting sources including as follows:

(i) The local Veterans Employment Representative or his or her designee in the State Employment Service Office nearest each establishment where hiring takes place to recruit job ready veterans and to develop on-the-job training opportunities for covered veterans wherever feasible;

(ii) The eVterans Administration Regional Office nearest each establishment to develop on-the-job training opportunities for covered veterans, and to recruit job ready veterans.

(iii) The office of the National Alliance of Businessmen nearest each establishment where hiring takes place in order to cooperate in the Jobs for Veterans' Program;

(iv) The veterans' counselors and coordinators ("Vet-Reps" and "VCIPS") on college campuses for the recruitment of covered veterans;

(v) The service officers of the national veterans groups active in the area of each establishment where hiring takes place for the recruitment of covered veterans; and

(vi) Local veterans' groups and veterans' service centers in the area of each establishment where employment services are performed near major cities, for the recruitment of covered veterans.

(5) The contractor should establish meaningful contacts with appropriate veterans' service organizations which service disabled veterans or veterans of the Vietnam era, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources listed in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(6) The contractor should review employment records to determine the availability of promotable and transferrable qualified known disabled veterans and veterans of the Vietnam era presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(7) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(8) The contractor should consider all qualified disabled veterans and veterans of the Vietnam era not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor should adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of disabled veterans and veterans of the Vietnam era in company publications.

(9) Post the policy on company bulletin boards, including a statement that employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the Act.

(h) *Responsibility for implementation.*—An executive of the contractor should be designated as director or manager of company affirmative action activities under these regulations. His or her identity should appear on all internal and external communications regarding the company's affirmative action programs. This executive should be given necessary top management support and staff to manage the implementation of this program, including the following activities:

(1) Develop policy statements, affirmative action programs, and internal and external communication techniques. The latter techniques should include regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed. In addition, supervisors should be advised that:

(i) Their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(ii) The contractor is obligated to prevent harassment of employees placed through affirmative action efforts, as set forth in § 60-250.51.

(2) Identify problem areas in conjunction with line management and known disabled veterans, in the implementation of the affirmative action programs, and develop solutions. This is particularly important for the accommodations requirements.

(3) Design and implement audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(iv) Determine whether known disabled veterans and veterans of the Vietnam era have had the opportunity to participate in all company sponsored educational, training, recreational and social activities.

(v) Ensure that each location is in compliance with the Act and the regulations in this Part.

(4) Serve as liaison between the contractor and enforcement agencies.

(5) Serve as liaison between the contractor and organizations of and for disabled veterans and veterans of the Vietnam era, and arrange for the active involvement by company representatives in the community service programs of local organizations of and for disabled veterans and veterans of the Vietnam era.

(6) Keep management informed of the latest developments in the entire affirmative action area.

(7) Arrange for career counseling for known disabled veterans and veterans of the Vietnam era.

(i) *Development and execution of affirmative action programs.*—(1) Job qualification requirements reviewed pursuant to paragraph (c) of this section should be made available to all members of management involved in the recruitment, screening, selection, and promotion process.

(2) The contractor should evaluate the total selection process including training and promotion to ensure freedom from stereotyping disabled veterans and veterans of the Vietnam era in a manner which limits their access to all jobs for which they are qualified.

(3) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to ensure that the commitments in its affirmative action program are implemented.

(4) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(5) A special effort should be made to include qualified disabled veterans or veterans of the Vietnam era on the personnel relations staff.

(6) Active participation in veterans "job fairs" is desirable.

(7) Recruiting efforts at all educational institutions should incorporate special efforts to reach disabled veterans and veterans of the Vietnam era.

(8) An effort should be made to participate in workstudy programs with Veteran's Administration rehabilitation facilities which specialize in training or educating disabled veterans.

(9) The contractor should use all available resources to continue or establish Federally-assisted apprenticeship and on-the-job training programs under 38 USC 1787.

§ 60-250.7 Determination of disability.

Any disabled veteran filing an administrative complaint with the Veterans Employment Service under this part shall submit documentation from the Veterans Administration or military service from which the person was discharged or released which indicates his or her disability. Such documentation shall be updated within one year prior to filing the complaint.

§ 60-250.8 [Reserved]

§ 60-250.9 Labor unions and recruiting and training agencies.

(a) Whenever performance in accordance with the affirmative action clause or any matter contained in the regulations in this Part may necessitate a revision of a collective bargaining agreement, the labor union or unions which are parties to such agreements shall be given an adequate opportunity to present their views to the agency, or to the Director.

(b) The Director shall use his or her best efforts, directly or through contractors, subcontractors, local officials, the Veterans Administration, veterans' organizations and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to assist in, the implementation of the purposes of the Act.

Subpart B—General Enforcement and Complaint Procedure

§ 60-250.20 Subcontracts.

Each nonexempt prime contractor and subcontractor shall include the affirmative action clause prescribed in § 60-250.4 in each of their nonexempt subcontracts. The clause may be incorporated by reference in accordance with § 60-250.22.

§ 60-250.21 Adaptation of language.

Such necessary changes in language may be made to the affirmative action clause (see § 60-250.4) as shall be appropriate to identify properly the parties and their undertakings.

§ 60-250.22 Incorporation by reference.

The affirmative action clause and the regulations contained in this Part may be incorporated by reference in all contracts and subcontracts.

§ 60-250.23 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the affirmative action clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this Part to include such a clause, whether or not it is physically incorporated in such contracts and whether or not there is a written contract between the agency and the contractor.

§ 60-250.24 Duties of agencies.

(a) *General responsibility.*—Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such cooperation shall include the responsibility to ensure that contractors are fully cognizant of their obligations under the Act and this Part, to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this Part, and to take such actions for noncompliance as set forth in § 60-250.28 as may be ordered by the Director.

(b) *Designation of agency official.*—The head of each agency, or his or her designee, shall identify and submit to the Director the name, address and telephone number of the official within the agency who is primarily responsible for implementation of this program within the agency.

§ 60-250.25 Evaluations by the Director.

The Director shall be primarily responsible for undertaking such investigations of complaints and other matters as well as evaluations of contractor and agency performance as may be necessary to assure that the purposes of The Vietnam Veteran's Readjustment Assistance Act, as amended are being effectively carried out.

§ 60-250.26 Complaint procedures.

(a) *Place and time for filing.* Any applicant for employment with a contractor or any employee of a contractor may, personally or by an authorized representative, file a written complaint with the Veteran's Employment Service of the Department of Labor through the Local Veteran's Employment Representative (LVER) or his designee at the local State employment office, alleging a violation of the Act or the regulations in this Part. Local Veteran's Employment Representatives (LVERs) will assist veterans in preparing complaints and will promptly refer such complaints to the Director. The LVERs will keep a record of all complaints received and forwarded. LVERs will be informed of the progress and results of the veterans' complaint investigations. The State employment services shall cooperate with the Director in the investigation of any complaint. Such complaint is to be filed not later than 180 days from the date of the alleged violation unless the time for filing is extended by the Director for good cause shown.

(b) *Referral to contractor.*—When a complaint is filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint shall be referred to the contractor for processing under that procedure. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If there has not been a resolution of the complaint under that procedure satisfactory to the complainant within 60 days of the referral, the LVER will refer the complaint to the Department of Labor or designated agency which will proceed as provided in this section.

(c) *Contents of complaints.*—Complaints must be signed by the complainants or their authorised representatives and must contain the following information: (1) Name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a copy of the veteran's form DD-214, and, where applicable, VAL-5 or similar VA certification indicating the percent of disability, updated within one year prior to the date the complaint is filed, and (5) other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known federal agency with which the employer has contracted.

(d) *Incomplete information.*—Where a complaint contains incomplete information, the Director or the agency designated by the Director for investigation of the complaint shall seek the needed information from the complainant. If the information is not furnished to the agency or the Director within 60 days of the date of such request, the case may be closed.

(e) *Investigations.*—The Department of Labor or the designated agency shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) Name and address of each person interviewed, (2) a summary of his or her statement, (3) copies or summaries of pertinent documents, (4) a narrative summary of the evidence disclosed in the investigation as it related to each charge, and (5) recommended findings and resolution.

(f) *Responsibilities of agencies.*—Agencies shall conduct investigations of complaints in accordance with specific requests of the Director.

(g) *Resolution of matters.*—(1) If the complaint investigation shows no violation of the Act or regulations in this Part, or if the agency or the Director decides not to initiate administrative or legal proceedings against the contractor, the complainant shall be so notified. Within 30 days, the complainant may request review by the Director of such a finding or decision.

(2) Where an investigation indicates that the contractor has not complied with the requirements of the Act or this Part, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this Part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Director or the agency, the contractor may be considered in compliance on condition that the commitments are kept. Where the matter has been referred to an agency for investigation and resolution, the contractor and the complainant shall be advised that the resolution is subject to review by the Director and may be disapproved if it is determined that such

resolution is not sufficient to achieve compliance.

(3) Where the complaint investigation indicates a violation of the Act or regulations in this Part (and the complaint has not been resolved by informal means) the Director, or the agency with the approval of the Director, shall afford the contractor an opportunity for a hearing in accordance with § 60-250.29.

§ 60–250.27 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the affirmative action clause is a ground for taking appropriate action for noncompliance as set forth in § 60–250.28 by the agency, the Director, prime contractor, or subcontractor. Any such noncompliance shall be reported in writing to the Director by the agency as soon as practicable after it is identified.

§ 60–250.28 Actions for noncompliance.

(a) *General.* In every case where any complaint investigation indicates the existence of a violation of the affirmative action clause or these regulations, the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include establishing a corrective action program in accordance with § 60–250.26(g)(2). Where the apparent violation is not resolved by informal means, the Director or the agency shall proceed in accordance with the enforcement procedures contained in this Part.

(b) *Judicial enforcement.*—In addition to the administrative remedies set forth herein, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60–250.4 incuding appropriate injunctive relief.

(c) *Withholding progress payments.*—With the prior approval of the Director so much of the accrued payment due on the contract or any other contract between the government prime contractor and the federal government may be withheld as necessary to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.*—A contract or subcontract may be cancelled or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.*—A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 60–250.29 Formal hearings.

(a) *Hearing opportunity.*—An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the agency or Director in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any investigation, is not resolved by informal means and a hearing is requested; or

(2) The Director, or an agency upon prior notification to the Director, proposes to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or termination of a contract or subcontract or withholding of progress payments; or

(3) The Director, or an agency with the approval of the Director, proposes to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) *Hearing practice and procedure.*—(1) Hearings conducted by the Office of Federal Contract Compliance Programs under this Part shall be governed by the rules of practice and procedure contained in 41 CFR Part 60–30 except that the Director shall perform all the duties and functions assigned to the Secretary by that Part.

(2) The practice and procedure for hearings conducted by agencies shall be consistent with the requirements of this section.

(i) Written notices of proposed action for noncompliance, signed by the appropriate agency official, shall be sent to the last known address of the prime contractor or subcontractor by certified mail, return receipt requested. If the contractor does not receive such notice, a copy of such notice shall be published in the Federal Register. The notice shall contain a precise jurisdictional statement, a short and plain statement of the matters furnishing a basis for the action for noncompliance, an enumeration of the actions being requested, and a citation of the provisions pursuant to which the requested action may be taken. The prime contractor or subcontractor shall be afforded at least 14 days from receipt of the notice of proposed action for noncompliance in which to file an answer to the notice and a request for a hearing with the agency and the contractor shall be so informed in the notice. The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the notice unless the prime contractor or subcontractor is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. The hearing request shall be included as a separate paragraph of the answer.

(ii) Reasonable notice of the hearing shall be sent by certified mail, return receipt requested, to the last known address of the prime contractor or subcontractor complained against. Such notice shall contain the time, place, and nature of the hearing and a statement of the legal authority pursuant to which the hearing is to be held. Hearings shall be before a hearing officer designated by or at the direction of the agency head. Each party shall have the right to counsel or other representative, a fair opportunity to present evidence and argument, and to cross-examine. Whenever a formal hearing is based in whole or in part on matters subject to the collective bargaining agreement and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party. Whenever a hearing is held on a complaint under § 80–250.26 any person or organization shall be permitted to participate upon a showing that such person or organization has an interest in the proceedings and may contribute materially to the proper disposition thereof. The hearing officer shall make his or her proposed findings and conclusions upon the basis of the record.

(iii) If, at the end of the 14-day period referred to in this section, no answer including a hearing request has been filed or the answer does not raise issues of fact or law, the agency head may cancel or terminate or cause to be canceled or terminated, or withhold progress payments with respect to any one or more contracts or subcontracts, or parts thereof, held by the prime contractor or subcontractor complained against, or enter an order declaring such contractor or subcontractor ineligible for further contracts, subcontracts, or extensions or other modifications of existing contracts, until the contractor or subcontractor has satisfied the Director that it has established and will carry out personnel and employment policies and practices in compliance with the provisions of the Act, affirmative action clause, and the regulations.

(iv) When the hearing is conducted by an agency, the hearing officer shall make recommendations to the head of the agency who shall make a decision whether action for noncompliance will be taken against the contractor or subcontractor. No decision by the head of the agency, or his or her representative, shall be final without the prior approval of the Director. Parties shall be furnished with copies of the hearing officer's recommendations, and shall be given an opportunity to submit their views.

§ 60–250.30 Notification of agencies.

The Director shall notify the heads of all agencies of any action for noncompliance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 60–250.3(b)(1) to any contractor subject to such action without prior approval of the Director.

§ 60–250.31 Contractor ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this Part and the Act.

§ 60-250.32 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this Part govern all disputes relative to a contractor's compliance with the affirmative action clause and the requirements of this Part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

§ 60-250.33 Responsibilities of State employment services.

(a) Any job openings listed pursuant to § 60-250.3 which requires contractors to list their job openings with State employment services offices, shall be utilized by State employment security agencies to refer qualified disabled veterans and veterans and veterans of the Vietnam era.

(b) The local offices of the Federal-State employment service shall give priority in referral to disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors and subcontractors pursuant to this part.

(c) The local employment office staff will contract employers to solicit job orders. The State employment service will make available information pertinent to a determination of whether the contractor is in compliance with the mandatory listing and reporting requirements of the affirmative action clause.

Subpart C—Ancillary Matters

§ 60-250.50 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the affirmative action clause.

§ 60-250.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the agency or the Director against any prime contractor or subcontractor, who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 60-250.52 Recordkeeping.

(a) Each contractor and subcontractor shall maintain for a period not less than one year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or agency or by this Part and shall furnish such information in the form required by the Director or agency or as the Director deems necessary for the administration of the Act and regulations issued under this Part.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-250.5(b) constitutes noncompliance with the contractor's or subcontractor's obligations under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

§ 60-250.53 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of complaint investigations, and investigations of performance under the affirmative action clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 60-250.54 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations contained in this Part 60-250 shall be made by the Secretary or his or her designee.

APPENDIX A

This employer is a government contractor subject to Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 which requires government contractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. If you are a disabled veteran covered by this program and would like to be considered under the affirmative action program, please tell us. This information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations, and (ii) first aid personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment. In order to assure proper placement of all employees, we do request that you answer the following question: If you have a disability which might affect your performance or create a hazard to yourself or others in connection with the job for which you are applying, please state the following: (1) The skills and procedures you use or intend to use to perform the job notwithstanding the disability and (2) the accommodations we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job or other accommodations.

APPENDIX B

The following is a set of procedures which contractors may use to meet the requirements of § 60-250.6(b).

(1) The application or personnel form of each known covered veteran should be annotated to identify each vacancy for which he or she was considered, and the form should be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

(2) The personnel or application records of each known covered veteran should include (i) the identification of each promotion for which he or she was considered, and (ii) the identification of each training program for which he or she was considered.

(3) In each case where a covered veteran is rejected for employment, promotion or training, a statement of the reasons should be appended to the personnel file or application form. This statement should include a comparison of the qualifications of the covered veteran and the person(s) selected, as well as a description of the accommodations considered. This statement should be available to the applicant or employee concerned upon request.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation which makes it possible for him or her to place a covered veteran on the job, the application form or personnel record should contain a description of that accommodation.

Effective date: The regulations in this Part shall become effective on July 26, 1976.

Signed at Washington, D.C. this 18th day of June, 1976.

W. J. USERY, Jr.,
Secretary of Labor.

JOHN C. READ,
Assistant Secretary for Employment Standards.

LAWRENCE LORBER,
Director, Office of Federal Contract Compliance Programs.

[FR Doc.76-18813 Filed 6-24-76;8:45 am]

Chairman SIMPSON. Would you briefly describe to the committee how you perceive the status or condition of the veterans' employment service as we enter the new fiscal year? How many employees are authorized? How many are on board? And are you still experiencing problems with proper startup proceedings?

Mr. PLOWDEN. We are authorized 225, sir, plus my position I believe. And we have on board as of this morning 208. Now, we have already taken and initiated steps since the urgent supplemental was passed. We took immediate steps to fill the vacant positions. They are proceeding according to regulations and statutes.

Chairman SIMPSON. And what are the results for your programs as of the recent passage of the supplemental appropriations bill? Could you share with us a bit more the problems you mention in your testimony which resulted from the extreme delay of its enactment and are you going to expect to require supplemental funding again in fiscal year 1984?

Mr. PLOWDEN. No, sir. I hope that our budget for fiscal year 1984 will adequately take care of this. The reason for this was simply because we were not given enough in the 1982 estimates by the ETA, the organization that we came out of. We are now going to be able to catch up with our travels in monitoring the local job service offices. And I think that between now and the end of this fiscal year we will be able to catch up the slack and give the technical assistance that we are required to give, sir.

Chairman SIMPSON. Back to that issue of authorized personnel. You stated in a letter to Ron Drach of the DAV that the Veterans' Employment Service has 225 FTEE authorized in addition to the schedule C positions. Would you please provide us a list of those positions for the record?

Mr. PLOWDEN. I will do that, yes.

Chairman SIMPSON. And how many DVOP vacancies are there currently? How many are due to reductions in force by State employment security agencies? And could you give us any comments or reasons for any other non-RIF caused vacancies?

Mr. PLOWDEN. We have authorized as of today 2,016. We have on board as of today 1,885. That leaves 131 vacant. We have gained 15 of these from July 19. So we are gaining every day. And we feel that this thing is correcting itself very nicely.

Chairman SIMPSON. How many States are still not in compliance with DVOP laws? And what do you intend to do in dealing with those states?

Mr. PLOWDEN. As far as dealing with the States are concerned, we have notified them through Employment and Training, ETA, that we would like to have the funds withdrawn that they have not used properly for DVOP's. And of course, Assistant Secretary Angrisani has responded favorably on that.

We have about 13 States that are not up to strength on DVOP's.

Chairman SIMPSON. And you state that you will be reinstituting the Secretary's Committee on Veterans' Affairs. Will staff members of the Senate and House Veterans' Affairs Committee be invited to attend as they have been in the past?

Mr. PLOWDEN. Yes, sir. We expect to have that meeting the first week in September.

[The Committee has been informed that the Secretary's Committee on Veterans' Affairs has not met as of December 1, 1982.]

Chairman SIMPSON. That same outreach will be in existence, will it?

Mr. PLOWDEN. Yes, sir.

Chairman SIMPSON. And you might furnish us, just so that we perform our oversight function as best as possible, if you could describe for us for the record your reorganization plans and the rationale for that structure together with a copy of your new organizational chart for the record, which was not part of the record.

Mr. PLOWDEN. I will, sir.

[Subsequently, the Department of Labor submitted the following information:]

Approved mission and functions

OFFICE OF THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT

a. Mission: To serve as the principal advisor to the Secretary on the formulation and implementation of all Departmental policies and procedures designed: (1) to carry out veterans' employment and training services; (2) to assure proper veterans' employment emphasis under federal contracts; (c) to protect and advance veterans' reemployment rights; and (4) to carry out all other Departmental employment, unemployment, and training programs to the extent that they affect veterans.

b. Functions:

(1) Develops and recommends to the Secretary, in cooperation with other appropriate Department of Labor (DOL) components, policies and procedures designed to guide the provision of employment, unemployment, training, reemployment and affirmative action services by DOL to veterans.

(2) In cooperation with affected agencies, directs the implementation of policies and programs to serve and meet the employment, unemployment assistance, reemployment and affirmative action services by DOL to veterans.

(3) Coordinates with Employment and Training Administration (ETA) to assure adequacy of program and financial plans to provide for the resources to serve veterans through State Employment Security Agencies and other employment and training delivery systems.

(4) Directs DOL veteran-related research and evaluation activities to ensure responsiveness and effectiveness of programs in meeting employment and training needs of veterans.

(5) Administers the field activities of the Veterans' Employment Service, the Disabled Veterans Outreach Program, and veteran services activities of the U.S. Employment Service.

(6) Directs the development, analysis and dissemination of program and labor market information for the effective management of veterans programs.

(7) Develops and administers a national outreach and public information program to assure maximum opportunities for employment and training of veterans.

(8) Maintains effective working relationships with Congressional Committees, other Federal agencies, public interest groups and veterans organizations concerned with employment and training of veterans.

(9) Directs the administrative, financial planning and management activities for the OASVE.

Approved mission and functions

OFFICE OF VETERANS EMPLOYMENT AND TRAINING PROGRAMS

a. Mission: To provide leadership, direction and guidance in the execution of the Department of Labor's veterans employment and training programs to provide program expertise and prepare implementing directives, and insures coordination of program matters with ETA, ESA, LMSA and other affected entities, including outside agencies.

b. Functions:

(1) Serves as principal operations liaison of the Office of the ASVE with the Employment and Training Administration (ETA), Employment Standards Administration (ESA), Labor-Management Services Administration (LMSA), and other affected entities.

(2) Reviews, develops and refines field operations directives to ensure correctness and systemmatic monitoring of the performance of veterans employment and training programs and delivery systems and coordinates their implementation through the Office of the DASVE.

(3) In accordance with established Departmental service procurement policies, develops plans for requests for proposals and monitors grants or contracts for special veterans outreach, public information, and comprehensive employment and training service demonstration projects. In coordination with existing DOL grant/contract funds disbursement channels, ensures that selected service providers are funded according to plans set forth in the agreements.

(4) Analyzes management data, evaluations, and operating reports provided by the field staff, and other sources, and recommends and develops appropriate program modifications.

(5) Through the DASVE, provides pertinent program technical assistance and advice to other ASVE National and Regional Office components and to other DOL components and service deliverers.

(6) Maintains liaison and coordinates program activities with other government agencies, especially the Department of Defense and Veterans Administration, participating in or concerned with veterans employment, and training programs.

(7) In conjunction with the Office of Policy, Planning, Legislation and Review, develops Annual Work Plan (AWP) guidelines and reviews and negotiates changes to AWP's.

Approved mission and functions

OFFICE OF POLICY, PLANNING, LEGISLATION AND REVIEW

a. Mission: To formulate and recommend policies, plans and resource allocations; to provide leadership in the development of all OASVE legislative proposals; to plan, develop, and direct the operation of the financial resources of the OASVE; and to provide program, fiscal and operational review for the OASVE.

b. Functions:

(1) Develops and maintains the OASVE unified management planning and management information system. Provides leadership to ensure that planning and reporting requirements and procedures utilized by field and national office staff cover essentials with regard to annual budget cycles, program operation and monitoring responsibilities, and personnel administration responsibilities. Coordinates with Office of the DASVE and Office of Veterans Employment and Training Programs to publish appropriate Annual Work Plan (AWP) instructions.

(2) Provides leadership in the formulation of annual and multi-year goals, high priority objectives and implementing strategies, including planning of essential staff training activities.

(3) Develops and maintains a comprehensive system to provide the OASVE with information necessary to make decisions concerning annual budget requests, and for allocation of funds to field staff for travel and other purposes, to ensure sound management of financial resources.

(4) Provides staff leadership in the review of all legislative proposals by other DOL components for veterans, or which would affect veterans employment and training programs, and coordinates the development of legislative proposlas to be initiated by the OASVE.

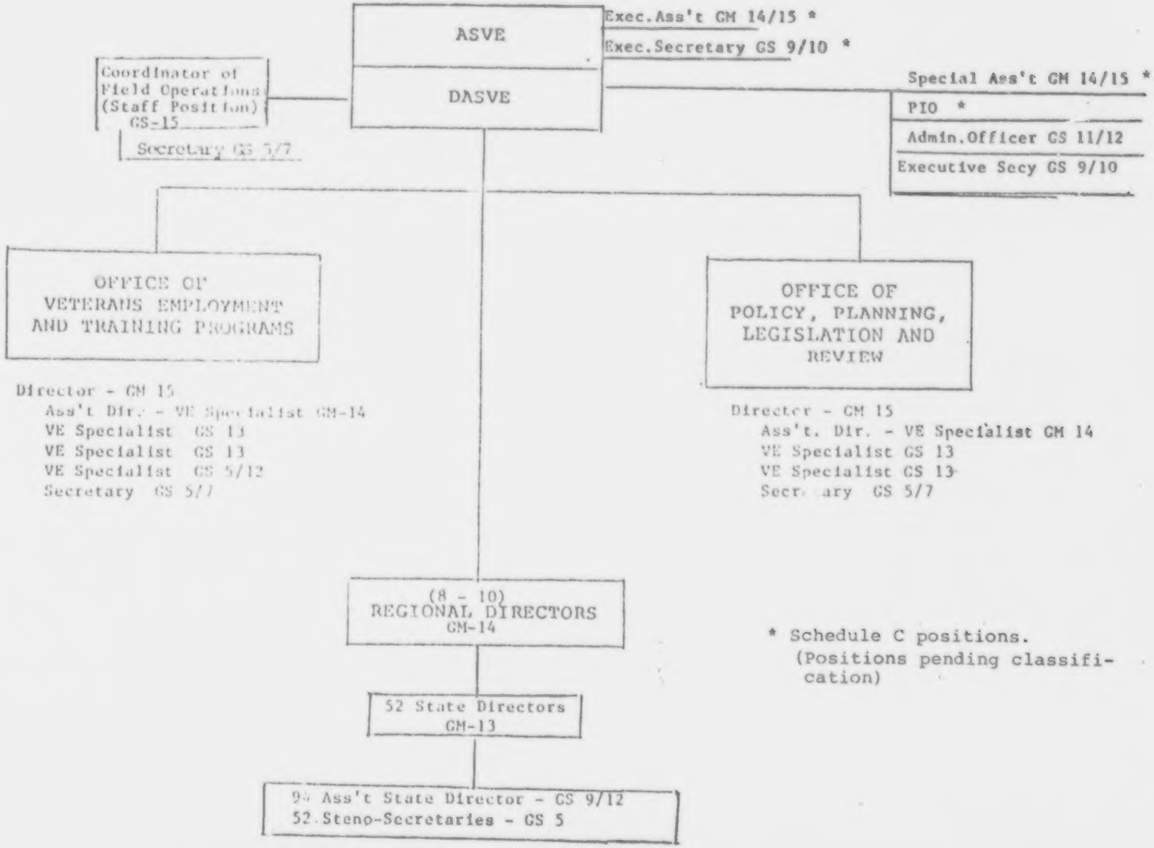
(5) Administers the OASVE research and development program including experimentation with and demonstration of new programming techniques.

(6) Develops and conducts broad based, comprehensive evaluations of the national public employment and training service system's performance in serving veterans' needs to provide the OASVE with information necessary for such things as annual reports to Congress, testimony before Congressional committees and addressing veterans groups, etc.

(7) In conjunction with the Office of Veterans Employment and Training Programs, conducts management reviews of offices on a periodic basis.

(8) Maintains close liaison with Congressional committee staff, representatives from veterans organizations, and other interested parties to stay abreast of program and policy needs perceived by them, and to keep them apprised of program and policy developments affecting their interests.

Approved organization for the Office of the Assistant Secretary for Veterans' Employment.


ASVE
DASVE
Exec.Ass't GM 14/15 *
Exec.Secretary GS 9/10 *
Special Ass't GM 14/15 *
PIO *
Admin.Officer GS 11/12
Executive Secy GS 9/10
Coordinator of Field Operations (Staff Position) GS-15
Secretary GS 5/7
OFFICE OF VETERANS EMPLOYMENT AND TRAINING PROGRAMS
Director - GM 15
Ass't Dir. - VE Specialist GM-14
VE Specialist GS 13
VE Specialist GS 13
VE Specialist GS 5/12
Secretary GS 5/7
OFFICE OF POLICY, PLANNING, LEGISLATION AND REVIEW
Director - GM 15
Ass't. Dir. - VE Specialist GM 14
VE Specialist GS 13
VE Specialist GS 13
Secr. ary GS 5/7
(8 - 10) REGIONAL DIRECTORS GM-14
52 State Directors GM-13
94 Ass't State Director - GS 9/12
52 Steno-Secretaries - GS 5

* Schedule C positions.
(Positions pending classification)

U.S. Department of Labor

Assistant Secretary for
Veterans' Employment
Washington, D.C. 20210

October 5, 1982

ASVE MEMORANDUM NO. 1-83

TO: REGIONAL, STATE AND ASSISTANT STATE
DIRECTORS FOR VETERANS' EMPLOYMENT

FROM: WILLIAM C. PLOWDEN, JR. William C. Plowden Jr.
Assistant Secretary for
Veterans' Employment

SUBJECT: FY 1983 Annual Work Plan (AWP)

1. Purpose. To transmit instructions to VES staff for preparing Annual Work Plans for FY 1983.

2. Background. The current format of the Annual Work Plan was devised several years ago with specific purposes in mind: to provide a comprehensive overview of the agency's goals and the schedule of activities expected to lead to accomplishment of those goals, and the staff time and travel fund resources associated with the scheduled activities. By incorporating all those elements into the AWP documents, each individual's AWP becomes a useful management tool. Because factors beyond individual control (such as agency funding constraints experienced in FY 1982) may arise and nullify previously approved AWPs, provisions have been made for revision(s) of AWPs during the fiscal year. However, I assure you we are taking action to try to prevent a repeat of the FY 1982 funding problem.

It is probable that we will begin FY 1983 funded under a Continuing Resolution, as we did in FY 1982. Therefore it is prudent that we should plan to be very conservative in expenditures, while still meeting our program mandates.

As you know, our program responsibilities have already begun to increase since the Office of the ASVE was established, and pending legislation may bring further changes which will impact on our operations. The guidelines in the following sections are provided to assist in the planning process. These guidelines and the AWP forms themselves have been revised after consideration of comments you submitted.

3. Planning Considerations.

a. Regional Travel Allocations For planning purposes VES field staff should use the total allocations made available to them in FY 1982 in arriving at activity levels. Those allocations are displayed on an attachment to this memo. It is recognized that those allocations may not be sufficient to support all activities necessary or desirable to achieve our objectives. Therefore, you should systematically plan according to the priorities and guidelines set forth in the following section, rather than attempt to devote at least some travel funds to each activity just to have an entry in each section of the AWP. You will note that the AWP has been shortened, as explained in the next section.

b. Staffing Assume that staff levels will not increase above the level on-board as of the end of FY 1982; include individuals scheduled to come on-board if approval to fill the vacancy had been granted in FY 1982 but paperwork or availability delayed the starting date. Assume that vacancies which occur during the year will be filled.

4. Program Priorities and Guidelines

a. Job Service/Employment Service

I. Evaluations. The mandate in Federal Regulations to evaluate each large local office remains in effect. As in previous years, "large" is defined as meaning an office which meets a criterion for assignment of a full-time LVER, regardless of whether a waiver for demonstrated lack of need has been granted. Much greater emphasis should be placed on evaluating whether or not the offices' policies and operating procedures deliver the mandated priority for services to veterans. We want to emphasize that Veterans Preference Indicators of Compliance are only indicators, a management tool, and focus attention properly upon State agency compliance with the performance standards for veterans set forth in 20 CFR 653.221-226. Plan to accomplish one evaluation of each office, large and small.

II. Follow-up Visits. In order for evaluations to be effective, we must follow-up to ensure that corrective actions to comply with the performance standards are implemented. However, it is not always necessary to actually return to the local office to follow-up; often the resident DVOP, LVER or another Job Service staff person can provide reliable information. This section in the AWP format has been separated from the "technical assistance" entry. Unlike initial evaluations, we cannot prescribe a numerical guideline; your experience and knowledge of the local office personnel are your guidelines as to the number of such visits to be planned.

b. Disabled Veterans Outreach Program. FY 1983 will be the transition year during which the VES will begin to assume nearly all Federal administration responsibilities. It has been decided by the Secretary that the OASVE shall have total responsibility for the DVOP in FY 1984. This shift in responsibility from the ETA to us will necessitate closer monitoring of the State agencies' DVOP operations, particularly the financial management and merit staffing operations. This new emphasis requires increases in the devotion of staff resources to analyses of cost accounting reports and personnel selection/retention/layoff procedures as they pertain to DVOP. The National Office has already taken necessary actions to revise the State agency planning and cost accounting systems for FY 1983 in order to facilitate program monitoring. Plan to monitor the duties and functions of DVOP staff during scheduled local office evaluations. Plan two monitoring visits to each DVOP outstation.

c. VES/ETA Liaison - New Roles and Relationships. The transfer of DVOP responsibilities will necessitate changes in the VES/ETA relationship, particularly at the Regional Office level. Regional Directors should plan to be involved in a conference at the National Office (N.O.) during the first quarter to prepare for implementation of the changes in Federal program administration responsibilities. Regional and State Directors should plan to confer at the regional level following the N.O./RDVE conference. Three days should be adequate for each conference.

d. New Employee Training. Although this activity is listed after several program activity priorities, we regard it as a top priority to be considered concurrently with planning local office evaluations, DVOP visits, etc. Typically, basic training for professional staff includes on-the-job training in on-site monitoring techniques. Plans should clearly specify the involvement of new employees in program activities such as evaluations as well as the resources which supervisors will devote to such training.

e. Public Information and Promotional Activities. At some point in FY 1983, dependent upon the legislation to succeed CETA, we may be able to commence a multi-media public information campaign. However, the activity must be conducted whether or not we receive special funding. You are encouraged to develop information materials in the absence of current DOL pamphlets. However, it is very important to obtain clearance from DOL and other agencies' Public Information Offices regarding any content applicable to programs they administer.

Our emphasis is to inform veterans of the services available and to promote the interest of private sector employers in utilizing all sources of veteran job applicants. While we want to promote the Job Service as the primary source, we should not exclude others (such as the VA Outreach Centers) since some veterans choose not to register with Job Service.

We also want to emphasize the importance of planning activities designed to motivate other organizations and agencies to get involved in the public information/promotional efforts since our own media resources are limited. In the two previous fiscal years the agency overall has exceeded its outreach and public information visits plan by nearly 200%, but the volume of basic information inquiries coming into the National Office (directly or through Congressional offices or the White House) has also increased. That indicates our visits have not been as effective as they need to be; like a local office evaluation, we must plan to achieve specific objectives on each visit, and follow-up to ensure the objectives are met.

f. Management (Technical) Assistance and Training Activities. In FY 1981 the agency received additional funding (under CETA Title III) for such activities, based upon our plans for training CETA Planning Council Veterans Organization Representatives and involvement in Job Service staff training. That source of funding was eliminated after FY 1981, and of course, CETA expires September 30, 1982. However, involvement in training of Job Service staff and management is still an important means of ensuring compliance and good performance. You are encouraged to place emphasis on involvement in the State's training efforts, to include not only the special training given to LVERs and DVOP staff, but also the interviewer trainees.

"Management assistance" visits have been listed as a separate item in order to differentiate them from evaluation follow-up visits. Most of the time, a visit should not be necessary to provide the information needed to resolve a management assistance problem, as little of our work is highly technical. You are encouraged to handle most management assistance requests, which usually entail interpreting directives or acting in a liaison capacity, by phone or mail.

g. CETA (or superseding legislation). The CETA expires at the end of September, 1982, but may be extended for another year if superseding legislation is not passed. Most of the legislation introduced thus far would provide for a transition from the current, highly autonomous prime sponsor organizational structure to a network of fewer and larger "prime sponsors" under greater control by the Governors. Private Industry

Councils will become the dominant advisory groups at both the State and sub-state levels. A significant aspect of the "New Federalism" concept inherent in most of the pending legislation is that Governors will be encouraged to consolidate Job Service and "CETA" agencies and establish common priorities for service; in other words, former "CETA" administrators and advisory council people are likely to become key people in the reorganized state employment and training service agencies. Therefore, you are encouraged to maintain contact with the Governor's office, but no AWP entries are required at this time. When the new legislation is passed, we will issue appropriate guidelines for addenda to this AWP.

h. Special National Programs. Although it is not certain, we are optimistic that new legislation will authorize us to administer several million dollars' worth of special employment and training programs in FY 1983. We plan to make significant changes in VES' administration of such programs, and the new mode of operation will involve field staff to a greater extent than in the past. At a minimum, field staff will monitor the performance of contractors in their areas and provide technical assistance to help ensure program success. The National Office will provide the necessary guidelines for each project. Since the new special programs will not be in place at AWP preparation time, there will be need for addenda to the Plans of those field staff responsible for areas when the programs are established. No entries need be made on the AWP at this time.

5. AWP Forms Preparation Guidelines.

a. Goal and Activity Columns. To facilitate the consolidation of AWP's into State and Regional composites, we ask that SDVEs and RDVEs refrain from adding goals and/or activities unless they are truly unique and not covered by the already listed items. We believe the AWP forms now contain a comprehensive listing of goals and activities.

b. Staffing - No. of Staff Column. This column must be completed in states where there is more than one VES staff member. In this column the SDVE indicates how many staff will be involved in each activity. RDVEs need not complete this column in the regional composite to be sent to the National Office.

c. Staffing - Day Estimates Column. Indicate in this column the total number of staff days that will be devoted to each activity. These estimates are necessary to ensure that planned activities can be accomplished with time for high quality work and that as many activities as possible are performed within the approximately 220 available workdays. Enter the total planned workdays on the last page in the space provided. RDVEs need not complete this column in the regional composite.

d. Time Frame Columns. This section of the form is for indicating when, in terms of FY quarters, the activity will be performed. The number to be entered in each column is the number of times the activity will be performed, not the number of days involved or number of staff. For example, if a state's 3 staff members are each going to evaluate 5 offices in the 2nd Quarter, the entry in the 2nd Quarter column would be 15.

A suggestion was made that quarterly travel estimates be listed as well. The National Office will not require such detail, but does not prohibit SDVEs or RDVEs from imposing such a requirement.

e. Travel Cost Estimate. Enter the total estimated cost for each Activity/Function, rounded off to the nearest dollar amount. Enter the FY total on the last page in the space provided.

f. Notes or Remarks Column. There are several required information items already printed on the AWP forms. In addition, this column should be used to enter explanations of unusual approaches to accomplish goals, extraordinary travel costs, etc.

7. Allocation of Travel Funds for FY 1983. As was done last year, we will make an allocation to each region to cover activities in the 1st Quarter. Total allocations will be made in December when the AWP process is completed.

8. Revision of VES Quarterly Reporting System. Chapter 9 of the VES Operations Manual will be revised to reflect final changes in the AWP format. The Operational Activity Log covers only the informational items needed by the National Office on a routine basis; it does not cover each activity listed on the AWP. It is recommended that SDVEs and RDVEs track expenditures against all AWP items for their own management purposes.

Attachments:
Annual Work Plan forms set
Tentative Regional Allocations
Timetable

FY 1983

ANNUAL WORK PLAN

TIMETABLE

EVENT	DATE
1. Draft instructions and guidelines to field staff for comment.	8/27/82
2. Comments to National Office from field staff.	9/14/82
3. Instructions issued to field staff by National Office.	10/01/82
4. Supplemental instructions (if any) issued by RDVE to field staff.	10/07/82
5. SDVEs transmit plans to RDVE and National Office.	10/22/82
6. RDVEs review plans, negotiate necessary revisions with SDVEs, and transmit revisions to National Office. RDVEs will also transmit their personal AWPs to the National Office at this time.	10/29/82
7. National Office reviews AWPs and approves all plans either conditionally or unconditionally.	11/19/82
8. RDVE acknowledges receipt of approval and that conditions imposed (if any) have been accepted and plans modified accordingly.	11/26/82

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING No. Of Staff	STAFFING Day Estim.	TIME FRAME 1st Qtr.	TIME FRAME 2nd Qtr.	TIME FRAME 3rd Qtr.	TIME FRAME 4th Qtr.	TRAVEL COST ESTIMATE	Notes or Remarks
I. ES Related: Achieve Compliance with Statutory Performance Standards and Special Programs Guidelines for Veterans.									
A. Review State Program and Budget Plan (PBPs) and provide input to assure adequacy of veterans-related provisions.	Reviews of revised FY 1983 PBPs. Reviews of FY 1984 PBPs								
B. Monitor and evaluate Job Service local offices to determine compliance with standards of performance and make recommendations for corrective action if necessary.	On-site visits to _____(number) large local offices (full-time LVER office) to perform complete evaluations.								Number of large local offices in area.
	On-site visits to _____(number) small local offices (part-time LVER offices) to perform complete evaluations.								Number of small local offices in area.
	Monitor compliance of Job Service agency by reviewing Indicators of Compliance, other ESARS reports, and cost accounting reports.				On-going				

Page No.
1

ANNUAL WORK PLAN

DATE:

GOAL	ACTIVITY	STAFFING		TIME FRAME				TRAVEL	Notes
OR	OR	No. Of	Day	1st	2nd	3rd	4th	COST	or
OBJECTIVE	FUNCTION	Staff	Estim.	Qtr.	Qtr.	Qtr.	Qtr.	ESTIMATE	Remarks
Cont'd									
C. Follow-up on evaluations to determine if corrective action has been taken.	On-site visits to ______(number) large local offices to resolve non-compliance problems (including follow-up visits to check progress of corrective actions).								
	On-site visits to _____(number) small L.O.s.								
	Participation in Job Service management conferences/meetings.								
D. Provide technical assistance to Job Service staff as needed.	Visits with Job Service management/staff to provide technical assistance.				On-going				
E. Provide training to Job Service staff as needed.	LVER/Manager training.								
	Interviewer/Counselor/other Job Service staff training.								
F. Timely reports of ES review findings.					On-going				

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING		TIME FRAME				TRAVEL COST . ESTIMATE	Notes or Remarks
		No. Of Staff	Day Estim.	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.		
II. DVOP Objective Ensure that the DVOP is operated in accordance with program directives and at budgeted levels.	Monitor DVOP staffing on monthly basis to ensure maintenance of authorized strength level and adherence to priority order of eligible veterans in appointment processes.				On-going				
	Monitor duties and functions being performed by DVOP staff during local office evaluations.								
	Monitor DVOP operations at __________ outstations.								
	Monitor cost accounting system reports on a quarterly basis to ensure proper utilization of DVOP funds.								

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING No. Of Staff	 Day Estim.	TIME FRAME 1st Qtr.	 2nd Qtr.	 3rd Qtr.	 4th Qtr.	TRAVEL COST ESTIMATE	Notes or Remarks
III. Outreach and Public Information: Increase the effectiveness of veterans outreach and public information programs.									
A. Maintain contacts with major veterans' organizations, community-based veterans organizations, state/county veterans affairs service officers, and outreach centers.	Participation in veterans' organization conventions (number) to promote support for veterans' employment and training programs.								
	Other meetings with veterans' organizations to address employment and training programs.								
	Other types of contacts to advance veterans employment and training programs.				On-going				
B. Ensure implementation of a Statewide outreach and public information program by State agencies involved in providing services to veterans.	Maintain contact with Public Information offices to ensure a continuing effort is made.				On-going				

ANNUAL WORK PLAN

DATE:

GOAL	ACTIVITY	STAFFING		TIME FRAME				TRAVEL	Notes
OR	OR	No. Of	Day	1st	2nd	3rd	4th	COST	or
OBJECTIVE	FUNCTION	Staff	Estim.	Qtr.	Qtr.	Qtr.	Qtr.	ESTIMATE	Remarks
Cont'd									
C. Maintain contacts with communications media.	Placement of promotional materials with radio, TV, and print media.								List efforts to be made to promote campaign (mail, telephone, contacts, etc.)
D. Maintain contacts with employers, unions, educational institutions, other governmental agencies and community based organizations.	Coordinate outreach and public information activities of the VES with those entities to ensure wide dissemination of information concerning programs for veterans.								
IV. Direct Veteran Assistance.									
Assist individual veterans in obtaining appropriate employment, counseling, and training services.	Ascertain the needs of veterans who contact or visit the VES office and refer them to appropriate service providers.				On-going				

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING		TIME FRAME				TRAVEL COST ESTIMATE	Notes or Remarks
		No. Of Staff	Day Estim.	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.		
V. Define and implement VES liaison roles and responsibilities to assure maximum coordination of resources as they affect veteran services.	Develop and implement an integrated system within each region for planning, monitoring and follow-up on DVOP, ES, and other services to veterans.								
	Participate in joint monitoring review with Regional Office ES staff.								
	Participate in Regional Office "in house" meeting concerning program operations, such as AIMS and OPRS reviews.								
	Participate in VES staff conferences convened by RDVE.								
	Participate in VES staff conferences convened by SDVE.								

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING		TIME FRAME				TRAVEL COST ESTIMATE	Notes or Remarks
		No. Of Staff	Day Estim.	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.		
VI. Development of appropriate individual elements, standards, and development plans and participation in appropriate training to improve necessary skills and increase knowledge.	Staff/supervisor discussions and preparation of necessary paperwork.								
	Participation in appropriate training sessions (excluding on-the-job training activities).								
VII. Preparation and distribution of required plans, directives, and reports on a timely basis.	Participation and distribution of required monthly and quarterly reports. (Travel, administration and operations).								
	Preparation of Annual Work Plan and negotiation of revisions necessitated by circumstances.								
	Review of National/Regional Office directives and issuance of appropriate instructions.				On-going				

ANNUAL WORK PLAN

DATE:

GOAL OR OBJECTIVE	ACTIVITY OR FUNCTION	STAFFING		TIME FRAME				TRAVEL COST ESTIMATE	Notes or Remarks
		No. Of Staff	Day Estim.	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.		
VIII. Performance of supervisory functions necessary to ensure effective and efficient program and personnel administration.	Supervisors only: Reviews of subordinate reports to ensure accuracy, coherence and technical competence.			On-going					
	Provision of basic and refresher training to staff.								
	Processing of necessary paper work for personnel actions.			On-going					
	Processing of travel vouchers.			On-going					
	On-site reviews of subordinate's operations.								

ANNUAL WORK PLAN

DATE:

GOAL	ACTIVITY	STAFFING		TIME FRAME				TRAVEL	Notes
OR	OR	No. Of	Day	1st	2nd	3rd	4th	COST	or
OBJECTIVE	FUNCTION	Staff	Estim.	Qtr.	Qtr.	Qtr.	Qtr.	ESTIMATE	Remarks
IX. Other Regional and/or State Goals or Objectives (Specify)	As appropriate.								

Total FY Travel Cost Estimate ____________

Total Work Days ____________

Chairman SIMPSON. And then would you just briefly describe the agreement you made with the VA to cooperate in providing services to veterans? *And could you provide a copy of that for the record?*

And if the bill is enacted, you testified that you welcome the outstationing of more DVOP's, and how many instances, I would wish to know, are DVOP's officially linked with the vet centers and how has this coordination worked out? And you might describe your ideas about where else DVOP could be successfully outstationed.

Mr. PLOWDEN. Yes, sir. I will submit that to the committee.

Chairman SIMPSON. If you would.

[Subsequently, the Department of Labor submitted the following information:]

As of November 1, 1982, 405 Disabled Veterans' Outreach Program staff were outstationed at other than Job Service offices. Of this total, 179 are located at Veterans' Administration facilities, of which 36 are VA Vet Centers (Psychological Readjustment Counseling Centers).

Chairman SIMPSON. I think that I will include some further questions in writing. Other members of the committee may wish to do so. And I want to thank you very much. And I want to express my thanks to you and I want to indicate, too, that Senator Cranston in his notes asked me to—since he was without his real glasses—was unable to complete his remarks and wanted to indicate his pleasure in welcoming you in your first appearance in your new capacity this morning.

And also, Senator Cranston wanted to indicate his acknowledgement of the newly appointed Deputy Director of the Education Service, Mary Leeland, whom he had the privilege of working with many years ago.

And so, thank you very much. And please continue to communicate with the committee. It is a function of our committee, oversight. And certainly this rather new approach that you are forming for us we are very interested in how you are doing with that. And let us know how we can be of assistance and support in that.

Mr. PLOWDEN. Thank you very much, Mr. Chairman.

Chairman SIMPSON. Oh, excuse me. I think, Senator Mitchell, did you have an inquiry you wished to make to Mr. Plowden?

Senator MITCHELL. I do, Mr. Chairman, but I will submit some questions to Mr. Plowden in writing that I would like answered.

Mr. PLOWDEN. Thank you, sir.

Chairman SIMPSON. Thank you very much.

[The prepared statement of William C. Plowden, Jr., Assistant Secretary of Labor for Veterans' Employment, and the Department of Labor's responses to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs; Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs; and Hon. George J. Mitchell, a U.S. Senator from the State of Maine; follow:]

PREPARED STATEMENT OF WILLIAM C. PLOWDEN, JR., ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to appear before you today to discuss S.2747, a bill which would make changes in the vocational rehabilitation and education programs administered by the Veterans Administration and the veterans employment programs administered by the Department of Labor.

Mr. Chairman, those of us who are charged with the responsiblities for administering veterans employment programs are keenly aware that unemployment remains a serious problem for our veterans. In the first half of 1982, unemployment for Vietnam-era veterans 25-39 years of age has remained at or above 9 percent. We agree with the Chairman that veterans unemployment is a national responsibility. We accepted that responsibility and appreciate the efforts of this Committee in introducing legislation intended to strengthen procedures to assist us to fulfill our responsibilities and commitment to our veterans.

Mr. Chairman, I would also like to thank you and your colleagues for the special interest and initiative you have shown in the veterans employment programs and their relationship to job training. Mr. Chairman, we wholeheartedly agree that it is important that veterans be served by the national training and employment programs.

Before discussing the provisions of this bill, I would like to mention several administrative improvements that have taken place within the Office of the Assistant Secretary which will bring greater efficiency to our programs. The reorganization of this office has been submitted and should be approved by the Secretary very shortly. I have provided Committee staff our new organizational chart along with mission and functions statements for the new offices. I am very pleased with the prospects for administrative and operational improvements that I think will be gained through this reorganization.

Our exercise of other important administrative actions has been dependent on the receipt of our badly needed urgent supplemental. We are now attempting to fill all of our vacant positions and our field staff is diligently trying to make evaluation and technical assistance visits which were postponed for lack of travel funds.

In regard to the Disabled Veterans Outreach Program, the Secretary has approved transfer of all DVOP responsibilities to my office. We are currently effectuating this transfer.

We are also striving to improve our liaison with veterans service organizations. I have recently established a biweekly information mailing and am establishing a regular monthly meeting for veteran organizations. We have also reinstituted the Secretary's Committee on Veterans' Affairs and will schedule a meeting in early September.

I mention these actions, Mr. Chairman, to point out that much learning, time and effort have gone into establishing what I think is a solid foundation from which we can continue good programs, redirect where necessary, and launch new initiatives.

I would now like to discuss with you the employment provisions of S.2747.

Section 2002 of title 38 provides that the Assistant Secretary for Veterans' Employment (ASVE) shall promulgate and administer policies to ensure that there shall be an effective job and job training counseling and placement service program for eligible veterans and eligible persons so as to provide such eligibles the maximum of employment and training opportunities. Section 202 of S.2747 amends Section

2002 by adding that the ASVE shall also promulgate and administer regulations in addition to policies. Section 202 of the bill further amends Section 2002 by requiring that in addition to maximum opportunities for veterans and other eligibles, that "priority [be] given to the needs of disabled veterans, veterans of the Vietnam era, and veterans who have been recently separated from active duty". Mr. Chairman, we point out that the ASVE is, by virtue of Section 2002A, title 38, the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to the extent they affect veterans. Accordingly, the "regulation" amendment is not necessary.

Additionally, we bring to your attention that priority in the provision of service to veterans by the Employment Service is accorded to all veterans, with first priority given to disabled veterans, then to Vietnam-era veterans, other veterans and other eligibles. These priorities are in accord with the various veteran definitions in current law as well as expressed congressional intent.

The veterans definitions were amended as recently as October 1980 by P.L. 96-466. Currently, there is no definition for "recently separated veteran". It is our contention that a new veteran definition would not be beneficial. The additional priority that might be gained by this subgroup of veterans, after serving disabled and Vietnam-era veterans, would most likely be negligible and, therefore, not warrant the staff resources and reporting changes required to make the differentiation for service and reporting. Each time a new category of veterans is singled out for special treatment and reporting, resources that might better be devoted to providing services to these veterans must be diverted to keep track of who is being served in each category.

Section 203 includes a requirement that full time clerical personnel for State directors of Veterans Employment Service be federal employees subject to Civil Service and Classification law. The section also broadens the eligibility for State and Assistant State Directors for Veterans Employment by providing for appointment of individuals who have been Assistant State Directors for Veterans Employment in any state, but only if there is no eligible veteran available for appointment who meets the established requirements. The section further adds responsibilities for the SDVEs and Assistants to supervise job listings, referrals, and timely resolution of complaints under Section 2012 of title 38, and to cooperate with employers and appropriate Veterans Administration staff in assisting veterans enrolled in or having completed training under Chapter 31 of title 38 and other veterans requiring employment assistance.

Mr. Chairman, we do not believe the provision is necessary to have in law since we already coordinate efforts with the VA, other agencies, and employers and we will continue to work closely with them. Concerning the broadened eligibility requirements for appointment to SDVE and Assistant positions, I am in agreement with several veteran organizations resolutions which are not in favor of changing the current requirements. However, if the provision becomes law I do not see that the changes will affect current hiring patterns.

Section 204 makes several technical and conforming amendments to the Disabled Veterans Outreach Program which we support. The amendment allowing a waiver to the limitation on the number of DVOP staff that could be stationed in Job Service offices is very welcome. This will allow us the needed flexibility to place DVOP staff where they can be of most assistance to veterans. I again point out, Mr. Chairman, that we are transferring the DVOP to my office.

Section 205 amends Section 2006 of title 38 by adding Chapters 42 and 43 to the existing requirements for Chapter 41 that requires an estimation of funds to administer the requirements of the chapter. This amendment is unnecessary since we are currently making such estimations, and will continue to do so. We do not believe this should be specified in law.

Section 206 amends Section 2007 of title 38 by requiring that activities carried out under Section 2003A (DVOP) be included in the annual report to Congress. Mr. Chairman, with or without legislation, we will report to you on activities of the DVOP.

Section 207 makes the United States Postal Service and the Postal Rate Commission subject to the provisions of Chapter 42, title 38, programs. This undoubtedly would add additional workload and perhaps a need for additional resources for which we do not at this time have estimates. Nevertheless, we defer comment to the Office of Personnel Management and the affected agencies.

Section 208 adds an annual reporting requirement for federal contractors of the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractors by job category and hiring location.

Mr. Chairman, we are more than aware of the need for a tool by which we can evaluate the Federal Contractor Job Listing program and other contractor provisions of Chapter

42. We have been meeting with Office of Federal Contract Compliance Programs staff on this very issue. Contractors already provide this kind of information by race and sex on an annual basis. This reporting addition would certainly be of greater assistance than the once required "quarterly report".

Section 209 amends Section 2025 of title 38 by providing that the provisions of Chapter 43, veterans' reemployment rights, be carried out through the ASVE. This would require transferring the veterans' reemployment rights program to the OASVE. Secretary Donovan has requested an indepth study on transferring the veterans Reemployment Rights program to the ASVE. The study will focus on cost and overall program and management effectiveness. The study should be completed by September.

Mr. Chairman, I believe that basic organizational decisions as to where in the Department a particular agency would be most effective should be left to the Secretary.

Mr. Chairman, I hope these comments will be of assistance to you and the Committee as you continue your work to develop meaningful and effective legislation to assist our nation's veterans. That concludes my formal statement and I'll be pleased to answer any questions you may have.

RESPONSE OF THE DEPARTMENT OF LABOR TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. Will your State Directors be given clerical support by the Secretary of Labor if this bill is enacted?

Answer 1.

State Directors are currently supported by secretaries who are Federal employees and will continue to be so supported. We are presently filling existing Federal field secretarial vacancies and our 1983 and 1984 budget requests include funding for the 52 Federal secretarial positions of the State Directors.

Question 2. If the Congress were to pass legislation calling for priority attention to unemployment among recently discharged veterans, how difficult would the task of adding a new priority category be? Do you agree that the youngest and most recently enlisted veterans are often going to have the highest rates of unemployment? If our current programs work as they are intended, Vietnam-era veterans will not always need priority treatment in employment programs. Shouldn't there be an attempt to look at new areas which might need priority?

Answer 2.

Adding a new priority category of veteran in legislation would require revision of application cards, employer order forms, reporting instructions, computer programs, training documents, etc. Local office staff would have to be trained in identifying individuals who fall in the category and how they are to be tracked, served, and recorded. It is difficult to assess the total cost increase which would impact on National, Regional and State agencies involved in veteran programs. Of course, all this can be accomplished. However, we must ask ourselves what will be gained by making this change. As stated in my testimony, I do not believe that any appreciable gain in service would be realized by adding "recently separated" veterans to the list of priority groups.

We agree that recently separated veterans have higher rates of unemployment than veterans who have been in the labor market for a longer period of time. We also know that disabled veterans and minority veterans have higher unemployment rates than other veterans who have been in the labor force for some time. Experience has shown that a proliferation in veterans target groups does not necessarily accomplish the objective of improved services. The practicalities of providing services to veterans target groups on a priority basis at the local level often hinge on the veterans' availability at the same time a job or training opportunity is available. While priority among veterans target groups is recognized; e.g., disabled and Vietnam-era veterans, we must not over categorize or we risk returning to a situation where increased time is devoted to serving the reporting system at the expense of lesser overall service for veterans.

We appreciated the Committee's efforts made to simplify and reduce the former unwieldy number of veteran categories as evidenced in P.L. 96-466. I feel that the current number of veteran definitions identify the veterans target groups which should receive the highest priorities. Without separately identifying "recently separated veterans" we feel that this group will continue to receive priority services over non-veterans. We will, of course, continually monitor the need for, and practicality of, special programs for recently separated veterans.

Question 3. Would you please describe the agreement you have made with the VA to cooperate in providing services to veterans? (Please provide a copy for the record.) If this bill is enacted, you have testified that you welcome outstationing more DVOP's. In how many instances are DVOP's officially linked with Vet Centers, and how has this coordination worked out so far? Please describe your ideas about where else DVOP's could be successfully outstationed. Do you plan to keep records on the productivity and success rates of veteran job placement for DVOP's?

Answer 3.

Enclosed is a copy of the revised VA/DOL Agreement, effective July 14, 1982, representing the work of a joint task force from various components of the Department of Labor (DOL) and the Veterans Administration (VA). It is a joint statement of cooperation between the two agencies on vocational rehabilitation, education and training, counseling, and placement and followup of veterans, their children and survivors. The new agreement defines relationships between the VA and DOL's Office of the Assistant Secretary for Veterans' Employment, Office of Comprehensive Employment Development, U.S. Employment Service, Office of Federal Contract Compliance Programs, Bureau of Apprenticeship and Training, Office of Veterans' Reemployment Rights, Bureau of Labor Statistics, and the Women's Bureau.

The agreement also incorporates provisions for the outstationing of Disabled Veterans Outreach Program (DVOP) staff at VA facilities with emphasis on outstationing at Vet Centers. The agreement prescribes that DVOP personnel outstationed at

VA facilities will perform duties directly related to meeting the employment needs of veterans consistent with the functions described in 38 USC 2003A(b) and (c).

We do not have a precise count on the number of DVOP personnel outstationed at Vet Centers, but we are in the process of revising our field reporting system which will provide this data on a periodic basis. We will provide you with this information as soon as it is available.

In regard to the question of where else DVOPs could be successfully outstationed, we have sufficient flexibility in field directives to permit DVOP personnel to be outstationed at sites other than VA facilities so long as such sites are consistent with the provisions of Section 2003A(b)(2), 38 USC. Potential sites include community-based organizations, veteran organizations, other government agencies, etc.

We are now working closely with the U.S. Employment Service to revise their automated data processing system to provide productivity data regarding the activity of DVOP staff beginning with FY 1983.

Question 4. Please describe the responsibilities of a Regional Director. What number of Regional Directors do you regard as desirable? When do conditions warrant abolishing the position of Regional Directors?

Answer 4.

Enclosed is a job description of the position of Regional Director for Veterans Employment (RDVE). At present, we have 10 positions for RDVEs, each stationed at one of the Employment and Training Administration Regional Offices located in Boston, New York City, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle. Currently the position in San Francisco is vacant.

We feel that the number of RDVEs needed to carry out our functions effectively should be governed by the scope of veteran-related programs and the needs of the veteran community in the area served. For this reason, we feel that our expanding role into more national programs, assumption of the Disabled Veterans Outreach Program and the possible absorption of veterans' reemployment rights and veterans affirmative action programs will better dictate where we station our RDVEs. We are currently assessing these factors to determine how many RDVE's are needed and where they should be stationed.

Question 5. If the proposed liberalizing of the residency requirement for appointment to State Director is passed, did you mean for this Committee to infer that you will ignore it?

Answer 5.

No, the Committee should not infer that I would ignore the availability of eligible Assistant State Directors for Veterans Employment in future selections of State Directors if the proposed liberalizing of the residency requirement is passed. Despite my personal convictions regarding the job-related value of the two-year residency requirement, I would appoint a non-resident Assistant State Director if after a sustained recruitment effort no eligible veteran could be found who does meet the residency requirement. I would not leave a State Director position vacant for a long period of time for the sole reason of non-availability of a qualified bona fide State resident as that would undoubtedly be harmful to our programs and our clientele.

AGREEMENT

BETWEEN

U.S. DEPARTMENT OF LABOR

and the

VETERANS ADMINISTRATION

Table of Contents

Section 1 -- INTRODUCTION

1. Purpose
1.1 General Objectives
1.2 Scope
1.3 Organization of the Agreement
1.4 Parties to the Agreement
    1.410 Veterans Administration
    1.420 Department of Labor
    1.430 State and Local Agencies Funded by DOL

1.5 Development of State and Local Agreements
    1.510 Intent
    1.520 Execution of State and Local Agreements

1.6 Exchange of Information and Client Data

1.7 Continuing Review of Relationships

Section 2 -- RESPONSIBILITIES AT THE NATIONAL LEVEL

2.0 Scope

2.1 General Provisions of the Agreement
    2.110 Cooperation and Coordination
    2.120 Responsibility for Maintenance of Agreement
    2.130 Monitoring of Agreement

2.2 Agency Advisory Committees
    2.210 Appointment to Committees
    2.220 Committees Requiring Agency Representation
2.3 Exchange of Information and Consultation
2.4 Relationship Between the VA and the Bureau of Apprenticeship Training
    2.410 National Level
    2.420 Local Level

2.5 Relationship Between DOL's Bureau of Labor Statistics and VA's Office of Reports and Statistics
    2.510 Data Provided BLS by the VA
    2.520 Data Provided VA by the BLS

2.6 Relationship Between DOL's Women's Bureau (WB) and VA
2.7 Studies, Research and Special Projects

2.8 Staff Training and Development

Section 3 -- STATE EMPLOYMENT SECURITY AGENCY

3.0 Scope

3.1 Agreements Between SESAs and VA
    3.110 Execution of Statewide Agreements
    3.120 Orientation

3.130 Local Innovative Programs
3.140 Outstationing of SESA Staff in VA Facilities
3.141 Outstationing of Local Office Veterans Employment Representative in VA Regional Offices
3.142 Outstationing of DVOP Staff at VA Facilities
3.143 Responsibilities of the SESA for Outstationed Employees
3.144 Responsibilities of the VA for SESA Staff in VA Facilities
3.150 Assignment of VA Work-Study Students to Local SESA Offices
3.160 Labor Market and Other Information
3.161 State
3.162 Local

3.2 Relationships of SESA and VA Regarding Individual Clients

3.210 Coordination of Evaluation and Counseling Services
3.220 Exchange of Information
3.230 Veterans With Service-Connected Disabilities
3.231 Employment Planning
3.232 Job Placement
3.240 Special Programs for Vietnam Era and Disabled Veterans
3.241 Career Development Centers
3.242 Operation Outreach Veteran Centers
3.243 Targeted Jobs Tax Credit

3.3 Relationships of the VA and the SESA with Respect to Employers
3.310 Outreach to Approved Employers Under the VA's On-Job Training Program (VA/OJT)
3.320 Cooperative Work Relationships
3.330 Federal Contracts Job Listing (FCJL) Program

Section 4 -- OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

4.0 Scope
4.1 Information Exchange
4.2 Complaints filed Under 38 USC 2012
4.210 Outreach to Eligible Veterans
4.220 VA Assistance with Documentation

Section 5 -- OFFICE OF VETERANS' REEMPLOYMENT RIGHTS (OVRR)

5.0 Scope

5.1 Information Exchange
5.2 Orientation Training
5.3 OVRR Access to Information in VA Records
5.4 Coordination of Services

Attachment 1

SECTION 1 - INTRODUCTION

1. PURPOSE

Pursuant to 38 USC 220, the purpose of this issue is to provide for the guidance of all concerned a joint statement of principles of cooperation between the Department of Labor (DOL) and the Veterans Administration (VA) applicable to the vocational rehabilitation, education and training, counseling, placement and follow-up of veterans, their children and survivors, and other programs for veterans administered by the two agencies which may benefit from cooperation and coordination.

1.1 General Objectives. The successful readjustment of veterans into civilian life is a mutual responsibility and concern of the VA and the DOL. To this end, both agencies are committed to active cooperation and coordination in the implementation of programs serving veterans. The agreement that follows provides guidelines for an action program at the national and local level in which personnel in the respective agencies as well as their affiliated state and federally funded local programs are expected to work together on behalf of the veterans to maximize the services they provide. Day-to-day coordination of services requires that personnel of each agency have fundamental knowledge and understanding of the types of services and benefits provided by the other agency and the basic eligibility criteria for each agency. The ultimate goal is successful vocational rehabilitation, adjustment and job placement for veterans without duplication, fragmentation or delay.

1.2 Scope. None of the services rendered under this Agreement by the agencies concerned shall be construed as requiring expenditures of funds over and beyond the cost of the prescribed functions of each agency.

1.3 Organization of the Agreement. Both the VA and DOL are legislatively mandated to provide a broad range of services to veterans involving many organizational units within each agency. Accordingly, this agreement has been developed to provide guidelines for the relationships and responsibilities between the VA and each separate DOL component, including federally funded programs which are administered by state and local governments.

1.4 Parties to the Agreement.

1.410 Veterans Administration. The VA is headed by the Administrator of Veterans Affairs (hereinafter called The Administrator). Two separate departments within the VA have responsibility for vocational readjustment of veterans: the Department of Veterans Benefits (DVB) and the Department of Medicine and Surgery (DM&S). The responsibilities of each derive from title 38, United States Code which embodies the overall mission of assuring that those who served their country will have a full opportunity for successful reintegration into civilian life. Both DVB and DM&S have Central Office staff in Washington, D.C. and field station staff at their respective facilities throughout the U. S. and certain possessions. VACO staff establish policy and procedures, while field staff are responsible to their facility director for service delivery.

1.411 Department of Veterans Benefits (DVB). DVB administers an integrated program of veterans' benefits consisting of compensation, pension, insurance, home loan guarantees, guardianship, education, training, rehabilitation, evaluation, counseling, outreach and general assistance. The primary DVB contacts at the VACO level will be through Veterans Assistance Service and Vocational Rehabilitation and Counseling Service. In field stations, primary contacts will be through the Veterans Services Division (VSD) and the Vocational Rehabilitation and Counseling (VR&C) Division.

1.412 Department of Medicine and Surgery (DM&S). The VA health care system is administered by DM&S. It has the legal mandate to provide comprehensive health care services to eligible veterans. Full psychological, rehabilitative, and vocational counseling are an integral part of this care. The Psychology Service at each facility is responsible for providing these counseling psychology services. Health care services are available to all veterans without reference to their eligibility for other specific VA educational or rehabilitation benefits. Close cooperation with staff of DVB is maintained through case managers where vocational or educational benefits exist. Operation Outreach Veterans Centers (Vet Centers) use a team approach to assist Vietnam era veterans who have readjustment problems. The centers are community based which makes them readily accessible to veterans.

1.420 Department of Labor (DOL). The wide-ranging activities of the Department touch the lives of all Americans. Specific services to veterans cited in this agreement are provided through the Veterans Employment Service (VES), the Employment and Training Administration (ETA), the United States Employment Service (USES), the Bureau of Apprenticeship and Training (BAT), the Bureau of Labor Statistics (BLS), the Office of Comprehensive Employment Development (OCED), the Office of Federal Contract Compliance Programs (OFCCP), the Office of Veterans Reemployment Rights (OVRR), and the Women's Bureau (WB).

1.421 Office of Assistant Secretary for Veterans' Employment (ASVE). The ASVE is the principal advisor to the Secretary of Labor (hereinafter called the Secretary) with respect to the formulation and implementation of all departmental policies and procedures to the extent they affect veterans. The ASVE, through the field staff of the VES, is administratively responsible to the Secretary for the execution of the Secretary's veterans' and eligible persons' counseling and placement policies through the State Employment Security Agency (SESA) and in cooperation with employment and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act (CETA) in the State.

1.422 Employment and Training Administration. The Employment and Training Administration (ETA) encompasses a group of offices and services which have been established to implement the responsibilities assigned to the DOL for conduct of certain work-experience and work training programs; funding and overseeing of programs conducted under the provisions of the CETA, as amended, by States and other authorized sponsors; administration of the Federal-State Employment Security System; and conduct of a continuing program of research, development, and evaluation. Administration of employment and training programs is directed by the Assistant Secretary for Employment and Training (ASET).

(A) United States Employment Service (USES). The USES is administratively responsible for the establishment and maintenance of a nationwide system of public employment offices (SESAs) as provided in the Wagner-Peyser Act. It is specifically responsible for setting procedures, standards and guidelines for operation of the system including employment services for veterans. Actual operation of the employment service within the Federal Guidelines is the responsibility of state governments.

(B) Office of Comprehensive Employment Development (OCED). The OCED provides leadership in the development and administration of CETA Titles IIB, C and VII community employment programs. OCED develops overall program policies, objectives and strategies for the conduct of employment and training programs and delivery systems for CETA Titles IIB, C and VII and promulgates regulations necessary for the implementation of these community employment programs. OCED also provides technical assistance, through proper channels, to ETA regional offices, and CETA prime sponsors, and reviews, in cooperation with the regional offices, the effectiveness and efficiency of employment and training programs and delivery systems. Actual operation of the CETA programs, in accordance with the CETA regulations, is the responsibility of CETA prime sponsors.

(C) Bureau of Apprenticeship and Training (BAT). The National Apprenticeship Act was passed in 1937 to enable the DOL to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices and cooperate with the States in the promotion of such standards, and to bring together employers and labor for the formulation of programs of apprenticeship. Through field representatives in each State, the BAT works closely with employers, labor unions, vocational schools, community planning groups, and others concerned with apprenticeship. Programs must meet standards established by the Bureau or a recognized State Apprenticeship Council to be registered. Field compliance reviews are conducted to determine conformity with Federal equal employment opportunity and other standards for apprenticeship and training. The program addresses national requirements for fully skilled workers as an essential component to continued economic growth and technological advances.

1.423 Office of Federal Contract Compliance Programs. (OFCCP). The OFCCP, an entity within the Employment Standards Administration, administers Section 402 of the Vietnam Era Readjustment Assistance Acts of 1972 and 1974. Under 38 USC 2012 firms holding contracts or subcontracts with the Federal Government for $10,000 or more are required to list jobs with the State Employment Service, take affirmative action to employ and advance in employment qualified disabled veterans of all wars and the veterans of the Vietnam era. OFCCP will promptly investigate all complaints and take appropriate action.

1.424 Office of Veterans' Reemployment Rights (OVRR). The OVRR, an entity with the Labor Management Services Administration, provides assistance to veterans, reservists, and members of the National Guard, and to their employers, in connection with reemployment and other rights and obligations created by statute. It affords protection to employed reservists and National Guardsmen against discharge from employment because of membership in reserve components or training duty obligations. In carrying out these missions, OVRR investigates complaints and negotiates and mediates with the parties, and in impasse situations prepares cases for possible litigation in the courts by the Department of Justice.

1.425 Bureau of Labor Statistics (BLS). The Bureau of Labor Statistics (BLS) has responsibility for the Department's economic and statistical research activities. BLS is the Government's principal factfinding agency in the field of labor economics, particularly with respect to the collection and analysis of data, labor force, employment, unemployment, hours of work, wages and employee compensation, prices, living conditions, labor-management relations, productivity and technological developments, occupational safety and health, structure and growth of the economy, employment outlook, urban conditions and related socio-economic issues, and international aspects of certain of these subjects.

1.426 Women's Bureau (WB). The WB is the only federal agency mandated to promote the welfare of women in the work force. Established in 1920 to formulate standards for women workers, the Bureau's major objective is to improve the economic status of all women through participation in the development of policy and programs which have an impact on women's employment and their employability. From its position in the Office of the Secretary, the WB cooperates with and makes recommendations to other agencies and constituent groups in such areas as: employment and training, sex discrimination, sex stereotyping, skilled jobs, and occupational safety and health, collection and dissemination of statistical information about women, occupational trends and international programs related to working women.

1.430 State and Local Agencies Funded by DOL.

1.431 State Employment Security Agencies (SESA). More than 2,000 local SESA offices, also known as Job Service Offices, operated by the States and territories, offer a variety of assistance to all applicants, including veterans, such as testing, counseling, job development, job placement services and referral to training. Disabled veterans and other eligible veterans are provided services on a priority basis. Each office has one or more specially trained Local Office Veterans Employment Representatives (LVER) who specialize in helping veterans get jobs and related services. Additionally, approximately 2000 Disabled Veterans Outreach Program (DVOP) staff nationwide are employed by the SESAs to provide intensive job development and placement services to disabled, Vietnam-era and other veterans.

1.432 Prime Sponsors under the Comprehensive Employment and Training Act (CETA). Programs under the CETA are operated by CETA prime sponsors. A prime sponsor is generally: (1) a State; (2) a unit of general local government which has a population of 100,000 or more; (3) any consortium of units of general local government which includes any unit of general local government with a population of 100,000 or more. CETA provides numerous employment and training services for economically disadvantaged persons. Veterans are provided special consideration in the development and operation of these service programs.

1.5 Development of State and Local Agreements.

1.510 Intent. This Memorandum of Agreement (hereinafter called Agreement) will provide direction for the relationship between VA and DOL at the national and field levels to assure maximum coordination of programs. This Agreement will also provide guidelines for the development of similar agreements at the state and local levels, where programs are operated by federally funded state or local agencies. Designated VA officials will participate with appropriate DOL and federal grantee officials in the development and negotiation of such local agreements. While both agencies recognize that local conditions dictate the need for flexibility in agreements made below the national level, the VA and DOL jointly declare that it is the intent of this Agreement that the guidelines for State and local agreements should be followed to the maximum extent feasible by the agencies involved without sacrificing either the letter of legislative mandates or the spirit of congressional intent.

1.520 Execution of State and Local Agreements. State and local agreements will be developed and fully implemented no later than 180 days following execution of the national Agreement.

1.6 Exchange of Information and Client Data. The VA and DOL agree to cooperate closely in the exchange of such information and client data which will facilitate the provision of services to veterans and other eligible persons. Agencies will exchange such information as provided for in this agreement at no charge to the receiving or requesting agency.

1.7 Continuing Review of Relationships. In order to facilitate the continuance of effective relationships under this Agreement, the appropriate components of the national offices of VA and DOL as identified in subsection 2.120 will meet during the 2nd quarter of each fiscal year to review legislative and programmatic changes and to evaluate and review the effectiveness of the provisions of this Agreement. The committee will revise the Agreement in accordance with legislative changes and propose other such revisions and changes as are necessary.

SECTION 2--RESPONSIBILITIES AT THE NATIONAL LEVEL

2.0 Scope. None of the services rendered under this Section by the agencies concerned shall be construed as requiring the expenditure of funds over and beyond the cost of the prescribed functions of each agency.

2.1 General Provisions of Agreement.

2.110 Cooperation and Coordination. The Secretary and the Administrator will maintain cooperative relationships including necessary coordination and participation of all VA and DOL components involved in the development and maintenance of a national Agreement. The stated goal of this Agreement is the successful vocational rehabilitation, adjustment and job placement for veterans without duplication, fragmentation or delay.

2.120 Responsibility for Maintenance of Agreement. The ASVE and the VA's Chief Benefits Director (CBD) of the Department of Veterans Benefits will have joint responsibility for maintenance of this Agreement according to the provisions of subsections 1.7 and 2.130.

2.130 Monitoring of Agreement.

(A) 180 days following (1) the execution of the complete Agreement or (2) any amendment to the Agreement which requires follow-up action, the national office components will meet to discuss the progress of the Agreement's implementation, including the development of, or amendments to, any field agreement executed pursuant to Section 3.

(B) Prior to such a meeting, the national office of the VA and the DOL will instruct their respective field staffs, as appropriate, to report the effective date of the local implementation of the Agreement or amendment, including the identification of problem areas which cannot be resolved locally and wherever possible recommend solutions. The national offices will followup to resolve areas thus identified.

(C) Immediately prior to each annual meeting as set forth in subsection 1.7 of this Agreement, monitoring reports as described in subparagraph (B) will be prepared by field staff for necessary action at the annual meeting.

2.2 Agency Advisory Committees.

2.210 Appointment to Committees. In order to promote better communication between the VA and the DOL as well as better coordination among their respective programs or services, it will be the policy of both agencies to assure that the other agency is fully advised of and given the opportunity to participate in advisory committees to the extent that such participation is permitted by law.

2.220 Committees Requiring Agency Representation.

(A) The CBD is hereby appointed as an ex-officio member of the Secretary of Labor's Committee on Veterans' Affairs.

(B) The ASVE is an ex-officio member of the VA's Veterans Advisory Committee on Rehabilitation authorized under 38 USC 1521 and the Advisory Committee on Educational Assistance as authorized under 38 USC 1792.

2.3 Exchange of Information and Consultation. The VA, through the CBD, and the DOL, through the ASVE, agree to exchange information on new legislation programs and regulations as they affect unemployed or underemployed veterans. The agencies will further allow for consultation when feasible on all proposed legislation, regulations, field directives and public information issuances in areas of overlapping responsibility.

2.4 Relationship between the VA and the Bureau of Apprenticeship and Training.

2.410 National Level. The VA and the DOL's Bureau of Apprenticeship and Training (BAT) will consult and coordinate at the national level to promote and facilitate the participation of veterans in registered apprenticeship or allied industrial programs.

2.420 Local Level. Local BAT offices will provide individual apprentice registration information to the appropriate VA Regional Office (VARO) for veterans only. The VARO will notify local BAT staff when benefits for registered veterans are approved in apprenticeable occupations. Within available resources, BAT will provide consultation to individual veterans regarding apprenticeships and allied industrial training opportunities for veterans. Both BAT and VA are encouraged to work together to promote apprenticeship and furnish information to veterans and interested parties. However, employer contacts to develop apprenticeship programs will be the function of the BAT staff. The VA will supervise and monitor the veteran's training on an approved program as otherwise provided in title 38, United States Code.

2.5 Relationship Between DOL's Bureau of Labor Statistics (BLS) and VA's Office of Reports and Statistics. The VA and DOL agree to exchange such statistical and demographic information as may be desirable or required and which does not entail unreasonable expenditures of funds or substantial increase in workload.

2.510 Data Provided by the VA to BLS. VA's Office of Reports and Statistics will provide to the BLS on a continuing basis monthly estimates of living noninstitutional male veterans by age and period of military service. Such data are used by BLS to provide control totals for Current Population Survey tabulations prepared by the Census Bureau for the publication "Employment and Earnings".

2.520 Data provided by the BLS to the VA. The BLS or Census Bureau with BLS approval will provide to the VA's Office of Reports and Statistics on a continuing basis:

(A) Monthly tables of male veterans and nonveterans by age and by labor force status including the employed, unemployed, unemployment rate and type of employer.

(B) Monthly, quarterly, and annual tabulations of male Vietnam era veterans and male nonveterans by age and by labor force status, full-time and part-time employment, occupation, and major activity of those not in the labor force.

(C) Annual tabulations of male veterans and nonveterans by age:

(1) Educational attainment and personal income distributions by level of education.

(2) Personal income distributions by work experience for year-round and part-year workers, full-time and part-time workers, and those who did not work during the year.

(3) School enrollment, by level of schooling, full or part-time enrollment, and occupation of enrollees.

(4) Income of families headed by veteran and nonveteran males by marital status and living arrangement.

2.6 Relationship Between DOL's Women's Bureau (WB) and VA. The VA and DOL's WB will consult and coordinate at the national level to identify issues of concern to female veterans and develop strategies to address those needs as appropriate.

2.7 Studies, Research and Special Projects. The Administrator will collaborate with the Secretary to insure maximum coordination and cooperation subject to available funding in the planning, development, conduct, and evaluation of studies, research, and special projects concerning the psychological, educational, social, vocational, industrial, economic and medical aspects of rehabilitation and/or employment of disabled veterans and other veterans. Effective methods of coordination and cooperation will be developed at the national and local levels and will span the entire range of study or research functions, from identification of areas needing study through implementation of results. The VA and the DOL further agree to cooperate in the development, where feasible, of innovative programs and special projects in areas such as outreach, counseling, career development, vocational rehabilitation, and job development.

2.8 Staff Training and Development. State Directors for Veterans Employment (SDVEs) and VA officials within a state will inform each other of staff training or development workshops, conferences and programs and will afford each other the opportunity to participate in or attend each other's training sessions. Such sharing of expertise in the field of employment, rehabilitation and related health care will enhance the quality of services provided by all concerned.

SECTION 3 -- STATE EMPLOYMENT SECURITY AGENCY

3.0 Scope. None of the services rendered under this Section by the agencies concerned shall be construed as requiring expenditures of funds over and beyond the cost of the prescribed functions of each agency. The provisions of this Agreement are to be construed as guidelines for the development of local agreements intended to minimize duplication of service and to maximize cooperation and coordination between the agencies. The SESA in each state is an agency of the state government and operates under an agreement with the DOL and under DOL regulations. The DOL shall implement the provisions of Section 3 through these agreements and regulations.

3.1 General Provisions of Agreements Between SESAs and VA.

3.110 Execution of Statewide Agreements. Each SESA should develop and execute a written agreement with the VA facilities in its state covering areas of mutual concern and delineating each agency's areas of responsibility. Agreements should be tailored to the best interest of veterans residing in the state and periodically updated. In states with more than one VARO, a comprehensive agreement rather than individual agreements will be developed. In developing agreements SESAs and VAROs will work in close consultation with the DOL's State Directors for Veterans Employment (SDVE). Since coordination of services between VA Medical Centers (VAMCs) and SESAs is essential to assure preferential service to veteran patients, VAMC Directors and Operation Outreach Team Leaders or their designees will participate in the preparation of the agreement described above. Agreements should include a provision for periodic visits by appropriate SESA staff to VAMCs.

3.120 Orientation and Training.

3.121 Orientation.

(A) SESA and VA officials shall make arrangements to conduct orientation for liaison staff on the services, operations and referral procedures of their respective agencies as well as other procedures developed as a part or as a result of the Agreement. VA and SESA offices in the same locality should also provide such orientation to other selected staff in their offices, particularly LVERs and counselors who may frequently be involved in interagency coordination of services.

(B) To ensure continuing awareness and understanding of agency procedures and operations, SESA and VA should exchange procedural manuals, instructions, and other information of mutual programmatic concern.

3.130 Local Innovative Programs. VA and SESA officials are encouraged to develop local innovative programs in areas such as advocacy, outreach, job development, counseling and career development. Cooperative efforts between the two agencies will be geared toward the matching of veterans with appropriate job or job training opportunities.

3.140 Outstationing of SESA Staff in VA Facilities.

3.141 Outstationing of Local Office Veterans Employment Representatives in VA Regional Offices. The negotiations between SESA and VA in each state should assess the need for outstationing LVERs in VA regional offices. The agrdement should reflect the assignment of personnel where the need has been established and where the assignment is feasible in terms of facility space.

3.142 Outstationing of DVOP Staff at VA Facilities.

(A) Requirement. 38 USC 2003A(b)(2) requires that not more than 75 percent of all SESA employees in a state in DVOP positions may be stationed in SESA local office facilities; the remaining personnel shall be outstationed at VA Vet Centers (38 USC 612A), veterans assistance offices (38 USC 242) and other sites as determined appropriate by the Secretary in accordance with regulations and after consultation with the Administrator.

(B) Outstationing Agreement. Each SESA, in consultation with the appropriate SDVE, will negotiate with VA officials an outstationing agreement for DVOP staff, which shall be incorporated into the statewide SESA-VA agreements prescribed under subsection 3.110 of this Agreement. Such agreements shall be executed no later than September 30, 1982.

VA facilities include:

(1) VA Regional Offices (VARO)
(2) VA Medical Centers (VAMC)
(3) Operation Outreach Veterans Centers (Vet Center)
(4) Veterans Assistance Centers (USVAC)

Any agreement executed pursuant to this Section should contain a description of arrangements made for outstationing and site selection, as well as training agreements described in subsection 3.142(E) of this Agreement.

(C) Allocation of DVOP Time at VA Facilities. SESA and VA facilities should execute outstationing agreements which realistically reflect the client traffic and workload at each facility. Where the workload at a site cannot justify a full-time DVOP, such personnel may be outstationed on a part-time basis. Workload will be determined by assessing the time involved in performing those job duties described in subsection 3.142 of this Agreement. In some States, VA facilities may not need to use all DVOP personnel available under the 25 percent formula. In those cases, SESA Administrators may outstation the remaining positions at other outstations consistent with the provisions of 38 USC 2003A(b)(2) in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

(D) Priority for the Provision of Employment Services by DVOP Staff. DVOP staff will provide employment services to eligible veterans in the following order of priority:

(1) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under ch. 31, title 38 United States Code.

(2) Services to other disabled veterans.

(3) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphasis set forth in ch. 42, title 38, United States Code.

(E) Duties of DVOP Personnel at VA Facilities. DVOP personnel outstationed at VA facilities will perform duties directly related to meeting the employment needs of veterans consistent with the functions described in 38 USC 2003A(b) and (c). Particular emphasis should be given (1) to providing outreach, job development, and placement services to unemployed and underemployed veterans visiting VA facilities, and (2) to coordinating the provision of employment and training services with VA programs and benefits, such as on-the-job training, readjustment counseling, vocational rehabilitation, and education and vocational training.

1. DVOP staff assigned to Vet Centers should perform duties which include, but are not limited to:

(a) Follow-up on referrals from Vet Center staff.

(b) Involvement with Team Leader and other Vet Center staff with particular emphasis on assessment of job readiness and development of job finding techniques.

(c) Outreach to employers via telephone contact and personal visits.

2. DVOP staff assigned to VR&C Divisions including Career Development Centers (CDCs) should perform duties which include, but are not limited to:

(a) Services to disabled veterans participating in the vocational rehabilitation program (ch. 31) and other disabled veterans. This will include job and on-job training development, selective job placement, follow-up services, providing job seeking skills training and job analysis. DVOP staff will participate with VR&C staff and veterans in early planning related to job placement and on-job training development.

(b) Services to disabled and other eligible veterans in the CDC. These will include screening and interviewing veterans seeking employment, and providing direct placement, job and on-job training development services.

(c) Job development and selective placement activities conducted primarily through telephone contacts and visits to employers. It is expected that about 50 percent of DVOP staff time will be spent on field work.

3. DVOP staff assigned to VSD USVACs should perform duties which include, but are not limited to:

(a) Coordination with the assigned SESA representatives in the operation of the USVAC program on employment.

(b) Outreach to seriously disabled veterans.

(c) Employment interviews away from the office and in the office with particular emphasis on job placement, training opportunities and job development.

(d) Attendance at job fairs or similar activities wherein contacts may be made with potential employers and with veterans seeking employment services.

(e) Operation of SESA activity in the absence of the LVER.

4. DVOP staff assigned to VAMCs should perform duties which include, but are not limited to:

(a) Coordination with case manager or other VAMC personnel as appropriate.

(b) Involvement with VAMC treatment team and assigned VR&C staff of DVB with special emphasis on evaluation of job readiness, job finding skills, job analysis and employment planning.

(c) Outreach to employers to develop on-job training and placement opportunity.

(E) Orientation and Training. VA officials and SESAs should arrange for orientation and training of new DVOP personnel in VA benefits and services, regardless of whether such personnel may be assigned to VA facilities. The VA will develop training plans and materials, subject to periodic revision, to provide for ongoing training for new DVOP staff. For those DVOPs stationed at such facilities, the VA agrees to provide additional training on the programs and services provided by the VA. DOL will provide the DVOPs appropriate training related to DOL programs.

3.143 Responsibilities of SESAs and VA Facilities in Outstationing of SESA Personnel.

(A) SESAs. Since DVOP personnel are employees of the SESAs, the local SESA office to which such personnel are assigned shall have overall responsibility for the conduct, performance, and administration of all DVOP staff. SESAs will provide: appropriate salaries; fringe benefits; employment service training; such supplies as may be required by the SESA to ensure that DVOP services remain consistent and coordinated with local regional office services; and funds for local travel.

(B) VA. In accepting outstationed DVOP personnel from the SESAs, VA will provide office space, telephones, clerical support and on-site supervision. The VA will assure that DVOPs perform only those duties related to meeting the employment and training needs of veterans and that such staff do not engage in functions or activities that are exclusively VA responsibilities. On-site supervision will also include: (1) provision of technical assistance; (2) analysis of work as it affects veterans and eligible persons; (3) guidance and suggestions for improvement of services; and (4) in coordination with SESAs, necessary timekeeping and schedule coordination.

3.150 Assignment of VA Work-Study Students to Local SESA Offices. The availability of VA work-study students to conduct outreach activities at SESA offices should be noted in the statewide agreements. Such outreach activity will include distributing information on VA benefits and services to eligible veterans and dependents and may also include distributing information on other governmental programs beneficial to veterans. SESA offices requesting these veteran student services should submit to the VARO a written description of the duties to be performed, a schedule of the hours to be worked and location where the work will be performed. The VARO will arrange for the direct supervision by a VA employee of those work-study students assigned to SESA offices.

3.160 Labor Market and Other Information.

3.161 State. The VA and the SESA in each State should agree to keep each other informed of programs which may be of assistance to veterans and will be responsive to requests for information. SESAs and VA facilities should develop information guides and brochures for use of the staff of the other agency to facilitate referrals and coordination of other services. SESAs should agree to provide appropriate VA facilities with timely labor market information. Such information might include: Labor Market Information Monthly Newsletters; Annual Planning Information for States, Standard Metropolitan Statistical Areas and Prime Sponsor Jurisdications; Directory of Labor Market Information; Affirmative Action Information; Short Term Supply-Demand Analysis; Long Term Occupational Projections; Wage Information; and Placement Assistance Information.

3.162 Local. Local SESA offices located in the same area with VAROs, VAMCs or Vet Centers should provide to those facilities such labor market information that the office collects that is not otherwise developed by the Employment Security Central Office.

3.2 Relationship of SESA and VA Regarding Individual Clients.

3.210 Coordination of Evaluation and Counseling Services. Reciprocal procedures should be established for direct referral from one agency to the other of veterans and dependents who require and are otherwise eligible for counseling and evaluation assistance in developing and carrying out suitable health care, readjustment, educational, vocational, rehabilitation, and employment plans. These procedures should include provisions for exchange of information which will assist the veterans to obtain suitable employment or training. Referral of veterans will be arranged by communication to specifically identified persons in each agency rather than just providing the address of the VA or SESA office to the veteran or dependent.

3.220 Exchange of Information. The VA and SESA will exchange relevant information derived from interviews, counseling, testing or other sources. The exchange of information will be in accordance with applicable State and Federal laws, agency regulation and policy, and where appropriate, will be accompanied by the written consent of the veteran.

3.230 Veterans With Service-Connected Disabilities.

3.231 Employment Planning. Employment planning will begin as soon as eligibility for rehabilitation services from the VA is established and will be incorporated by the VA into the Individualized Written Rehabilitation Plan (IWRP) and the Individualized Employment Assistance Plan (IEAP). When possible the DVOP specialist should participate with VR&C staff and the veteran in early planning related to job placement and on-job training development. DOL services shall be included where appropriate and their provision agreed to by DOL at the time the plan is executed. The IEAP will specify the employment services to be provided, the names and addresses of service providers, the job search techniques to be undertaken, and a systematic plan for follow-up.

3.232 Job Placement. The placement of disabled veterans, especially seriously disabled veterans, may require special measures to assure that placement is suitable in terms of the veterans' physical capacities. Such employment assistance should be provided jointly and cooperatively as appropriate in the individual case. The employment assistance provided under ch. 31 may include:

(A) Direct placement by VR&C staff;

(B) Utilization of the services of DVOP specialists under 38 USC 2003A;

(C) Utilization of the job development and placement services of programs under the Rehabilitation Act of 1973, the State Employment Service, and the Office of Personnel Management.

3.240 Special Programs for Vietnam Era and Disabled Veterans.

3.241 Career Development Centers (CDCs).

(A) CDCs in the VR&C Division of some VAROs provide disabled and other veterans with current occupational information, vocational exploration, counseling, evaluation of training needs, and appraisal of job readiness. The CDCs also furnish training in job-finding skills. In some instances, a veteran may require the services of the VA and SESA concurrently. Interagency referral procedures should be coordinated to insure appropriate follow-through. In some cases, a DVOP may be assigned to the CDC on a full or part-time basis. This arrangement lends itself to continuity of service and a ready method of information exchange. In those cases where a DVOP or LVER is not stationed at the CDC or VARO, VA staff will make direct referrals to SESA as appropriate.

(B) The VA will assure that the SESA is informed about CDC services. SESA staff should refer to the CDC those veterans who need or desire individualized career development.

3.242 Operation Outreach Veteran Centers. Vet Centers are designed to assist Vietnam era veterans with readjustment problems that they have been unable to resolve since their release from active duty. The objective is to help these veterans to overcome any readjustment problems by utilizing their veterans' benefits, utilizing existing public agencies and community resources, and providing counseling to overcome readjustment problems. Although the Vet Center Outreach Aides devote much of their time making outreach contacts, other VA staff and SESA employees are a primary source of referrals to the Vet Centers. When a veteran requires the services of a Vet Center, other VA elements, and SESA simultaneously, the responsible staff members should consult each other to coordinate the delivery of such services.

3.243 Targeted Jobs Tax Credit (TJTC).

A. ETA has been designated by the Secretary as responsible for and having overall authority over the certification and marketing of the Targeted Jobs Tax Credit (TJTC). SESAs, as the designated local agencies, are responsible for determining target group eligibility and marketing of the tax credit at the State and local levels.

B. The VA will assist in the public information aspects of the TJTC program by distributing ETA materials and/or developing VA materials with ETA assistance. VAROs will assist in the preliminary determination of eligibility by vouchering disabled veterans who are completing or have completed a vocational rehabilitation program under chapter 31. Other veterans who might qualify as economically disadvantaged Vietnam era veterans will be referred to the SESA for screening. In all cases, the verification of eligibility (certification) will be done by the SESA.

3.3 Relationship of the VA and the SESA with Respect to Employers.

3.310 Outreach to Approved Employers Under the VA's On-Job Training Program (VA/OJT). Statewide agreements should describe the specific steps to be taken in outreach activities to approved VA/OJT employers, making maximum use of the VA list of such employers, RCS 212-3. Steps will include procedures for the distribution of the list, contact procedures and coordination with VAROs and State Approving Agencies (SAA).

3.320 Cooperative Work Relationships. Each state agency shall establish cooperative working relationships with the VA office serving the state to insure that DVOPs and LVERs maximize the use of VA training programs for veterans and other eligible persons, particularly on-the-job and other skill training. In order to avoid duplication there should be close coordination in employer contacts for job development and placement purposes, assisting employers in the development or maintenance of affirmative action programs and in fulfilling their obligation to make reasonable accommodations.

3.330 Federal Contractor Job Listing (FCJL) Program. The written agreement should insure that VAROs and other VA facilities are prepared to assist Federal contractors required to list jobs with local SESA offices under the provisions of 38 USC 2012 in recruiting eligible and job-ready special disabled veterans and veterans of the Vietnam era. The agreement should additionally insure that SESAs make such contractors aware of apprenticeship, OJT training, and vocational rehabilitation programs approved for veterans. This portion of the agreement should be developed with the assistance of the SAA.

3.331 Apprenticeship Programs Approved for VA Trainees. BAT and the 32 states and territories with State Apprenticeship Councils (SACs) have the responsibility for administering the apprenticeship program. BAT and/or SACs should ensure that Federal contractors are advised of apprenticeship programs approved for VA trainees.

SECTION 4--OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

4.0 Scope. None of the services rendered under this Section by the agencies concerned shall be construed as requring the expenditure of funds over and beyond the cost of the prescribed functions of each agency.

4.1 Information Exchange. The OFCCP, through the ASVE, will insure that the VA is informed of legislative and regulatory requirements affecting the VA and veterans in areas of mutual concern under the provisions of 38 USC 2012.

4.2 Complaints Filed Under 38 USC 2012.

4.210 Outreach to Eligible Veterans. OFCCP will provide, through the ASVE, information and acquaint VA personnel with regulations and complaint procedures covering such veterans in connection with employment by covered Federal contractors. The VA agrees to assist special disabled veterans and veterans of the Vietnam-era in understanding their rights under 38 USC 2012 as described in subsection 1.423.

4.220 VA Assistance with Documentation. The VA agrees to provide prompt certification of service-connected disability to OFCCP or veterans when such documentation is required in support of veterans' complaints against covered Federal contractors.

SECTION 5 -- OFFICE OF VETERANS' REEMPLOYMENT RIGHTS (OVRR)

5.0 Scope. None of the services rendered under this Section by the agencies concerned shall be construed as requiring expenditures of funds over and beyond the cost of the prescribed functions of each agency.

5.1 Information Exchange. OVRR staff will insure that appropriate VACO and field staff are informed of legislative developments and legal precedents affecting veterans, reservists, and members of the National Guard in areas of mutual concern in the program described in subsection 1.424. This information will be forwarded to DVB for dissemination to VAROs.

5.2 Orientation Training. OVRR and VAROs through the SDVE will make appropriate arrangements for providing orientation training to liaison staff on the services and operations of their respective agencies, as well as specific procedures outlined in this agreement. VA and OVRR offices in the same locality will also provide such training to other selected staff in their offices, particularly to those staff members who respond to the public and who may frequently be involved in coordination of services between agencies (i.e., OVRR Investigators and VA Benefits Counselors). Training and orientation should include, but not necessarily be limited to, the basic mission and function of the OVRR program, the types of data outlined in subsection 5.1 and the operating procedures in accordance with the OVRR compliance enforcement strategy.

5.3 OVRR Access to Information in VA Records. OVRR and VA field personnel will make arrangements for obtaining copies of records and data from the VA pertaining to individual veterans if such data would be helpful in the investigation or mediation of VRR complaint cases opened as described in subsection 1.424. All requests and releases of information will be in accordance with DOL/VA policy and will comply with provisions of the Privacy Act. OVRR usage of such information will be as indicated in the OVRR operating manual and the compliance-enforcement strategy. Some records which may be in VA systems which would be particularly helpful are: The DD 214, medical records, records relating to disability, records concerning the payment of benefits, pension records, educational records, records indicating accumulated years of active duty, and records dealing with the verification of data needed to upgrade discharges.

5.4 Coordination of Services. The VA and the OVRR agree to keep each other informed of programs which may be of assistance to veterans and will be responsive to requests for information and will refer claimants to each other as appropriate. OVRR and VA facilities will utilize the information guides and brochures currently developed to disseminate information about the mission and services of both agencies, and will consider additional brochures as necessary. Those brochures currently in use include the VA Fact Sheet IS-1 and the list of VAROs disseminated to the OVRR field staff, as well as several OVRR pamphlets and Field Letters. This system will be matched by the national agreement between OVRR and VA to include VRR information in VA's mailing to recently separated veterans. Upon receipt of an inquiry each agency will be able to recognize the problem sufficiently so as to be able to refer the individual to the appropriate agency and to coordinate service to clients, particularly recently separated veterans.

This joint Agreement supersedes the Memorandum of Understanding signed on December 18, 1979.

Raymond J. Donovan	Robert P Nimmo
RAYMOND J. DONOVAN Secretary of Labor	ROBERT P. NIMMO Administrator of Veterans Affairs
Signed at Washington, D.C.	Signed at Washington, D.C.
JUL 14 1982	June 18, 1982

Attachment 1

GLOSSARY

Administrator - The Administrator of Veterans Affairs, Head of the Veterans Administration

ASET - Assistant Secretary for Employment and Training

ASVE - Assistant Secretary for Veterans Employment

BAT - Bureau of Apprenticeship and Training

BLS - Bureau of Labor Statistics

CDC - Career Development Center

CETA - Comprehensive Employment and Training Act, a program under DOL

Disabled veteran means (a) a veteran who is entitled to compensation under laws administered by the Veterans Administration, or (b) a veteran who was discharged or released from active duty because of service-connected disability.

DM&S - Department of Medicine and Surgery of the Veterans Administration

DOL - Department of Labor

DVB - Department of Veterans Benefits of the Veterans Administration

DVOP - Disabled Veterans Outreach Program

Eligible veteran means a person who (a) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (b) was discharged or released from active duty because of a service-connected disability.

ETA - Employment and Training Administration

LVER - Local Office Veterans Employment Representative

OCED - Office of Comprehensive Employment Development

OFFCCP - Office of Federal Contract Compliance Programs

OVRR - Office of Veterans Reemployment Rights

SAC - State Apprenticeship Council

SDVE - State Director for Veterans Employment

Secretary - The Secretary of Labor, Head of the Department of Labor

SESA - State Employment Security Agency, the state level organization under DOL's United States Employment Service

Special disabled veteran means (a) a veteran who is entitled to compensation under laws administered by the Veterans Administration for a disability rated 30 percent or more, or (b) a veteran who was discharged or released from active duty because of service-connected disability.

TJTC - Targeted Jobs Tax Credit, a program under DOL

VA - Veterans Administration

VACO - Veterans Administration Central Office in Washington, DC

VAMC - Veterans Administration Medical Center

VAO - Veterans Administration Office, a satellite DVB office away from a VARO

VA Officials mean VARO Directors, VAMC Directors and Operation Outreach Team Leaders or their designees.

VARO - Veterans Administration Regional Office

VAS - Veterans Assistance Service in VACO, under DVB

VES - Veterans Employment Service

Vet Center - Operation Outreach Veteran Center, a community based center operated by DM&S facilities

Veteran of the Vietnam era means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era. No veteran may be considered to be of the Vietnam era under section 2011 of title 38 U. S. Code after December 31, 1991.

VR&C - Vocational Rehabilitation and Counseling Service (in VACO) or Division (in VAROs)

VSD - Veterans Services Division in a VARO or VAO

WB - Women's Bureau, Office of the Secretary (DOL)

POSITION DESCRIPTION - REGIONAL DIRECTOR FOR VETERANS EMPLOYMENT (RDVE)

INTRODUCTION

The mission of the Veterans Employment Service is to assure effective job training, counseling, and placement services for eligible veterans, so as to provide such veterans the maximum of employment and training opportunities through existing programs, coordination and merger of programs, and implementation of new programs. The Regional Veterans Employment Representative (RVER) will have the responsibility for carrying out this mission within each region.

The position is located in one of the ten Manpower Administration Regional Offices. The incumbent of this position is the Regional Representative of the Director of VES, and is a member of the Manpower Administration's Regional Executive staff.

The incumbent will report to, will be responsible to, and will receive administrative direction from the Director, VES, Washington, D. C. in regard to legally mandated VES activities. The incumbent also supervises for the Director, VES, Washington, D. C. the State Veterans Employment Representatives (VER's) and the Assistant Veterans Employment Representatives (AVER's) located in the States within the region to which assigned.

The incumbent will report to, will be responsible to, and will receive operational direction from the Assistant Regional Director for Manpower (ARDM), of the region to which assigned, on matters concerning regional performance with respect to veterans' activities specifically delegated to the ARDM. The incumbent will also assist the ARDM by providing advice and expertise with respect to such specifically delegated veterans' activities.

DUTIES AND RESPONSIBILITIES

Directs and supervises outstationed VES field staff of ______ employees (____ State VER's, ______ AVER's in _____ States in Region ______). Provides continuous supervision of all VES field staff within his regional area through performance reviews, direct visitations and regular reporting procedures. Assists the Director of VES in the selection and induction of new VES field staff and provides them with orientation, training, and guidance. Implements and adopts standard procedures and policies as needed to serve local requirements.

Supervises and directs SVER monitoring and assessment of State Employment Security Agency compliance with Chapters 41 and 42, Title 38, United States Code, concerning effective assistance to disabled veterans and other veterans on the basis of the findings so obtained, certifies SESA compliance or recommends appropriate corrective action to the ARDM.

Identifies and recommends to the VES Director and the ARDM of the region to which assigned required changes in emphasis, corrective action, and/or programming to meet current and future needs for serving veterans within his regional area. Assures that SVERs and AVERs carry out the provisions of Public Law 92-540 on a full-time basis.

Promotes and encourages cooperative relationships between SVER's and AVER's and the ARMA's and Federal Representatives assigned to the same States for mutual assistance in monitoring and evaluating performance of local Employment Service offices and CETA Prime Sponsors in such areas as the Mandatory Listing Program, the NAB Veterans programs, the JFV activities and other aspects of the President's Veterans Program.

Represents the ARDM and the VES in connection with veteran activities with other Federal agencies. Provides technical assistance to other regional office staff on veteran activities as required.

Coordinates Department of Labor activity within the region relating to veterans services with Federal agency components, particularly the Department of Defense, the Veterans Administration, the U.S. Civil Service Commission, the President's Committee on Employment of the Handicapped, the Office of Vocational Rehabilitation, the Department of Health, Education and Welfare, and other Federal and State organizations to plan and implement programs within the region designed to improve working conditions and to promote the employment of veterans. Also coordinates DOL activities within the Region relating to veterans with unions, veterans organizations, employers, and community organizations.

In coordination with the appropriate Area Operations Office, assists VES field staff in developing relationships with CETA prime sponsors to assure inclusion of appropriate levels of services for veterans in all local programs. Reviews CETA SESA PPBR and other proposals and recommends changes to achieve proper levels of service. Coordinates provision of technical assistance by VES staff with Federal Representatives to assure compliance with Manpower Administration policy.

Assumes responsibility for and coordinates with the appropriate Area Operations Office visitations to State VER and local office AVER field offices. Visits State ES Central offices and local offices with the SVER to act as advisor and/or trouble shooter on operating problems. Determines effectiveness and adequacy of monitoring, evaluation and functional supervision as performed by VES field staff, to include extent of adherence to policies relating to the promotion of job and training opportunities, job counseling and placement of veterans. Reviews and takes necessary administrative and supervisory action on all reports submitted by field staff to insure compliance with legal mandates, and policies of the Secretary of Labor.

Makes presentations and speeches and participates in meetings, conferences, briefings, training sessions, etc. held by DOL and other agencies and by veteran, employer, labor union and community organizations. Represents the VES Director and/or the ARDM, when requested, on matters pertaining to services to veterans, at such gatherings.

Supervises and participates in the preparation of special reports in response to requests from the VES Director and/or ARDM in matters involving VES field activities and operations within his regional area of responsibility. Directs field staff in this regard and insures that such assignments are carried out promptly and effectively.

Supervises the handling by VES staff of complaints by disabled veterans and Vietnam-era veterans who believe Federal contractors and subcontractors have failed or refused to comply with the requirements of PL 92-540 with regard to employment of veterans under Mandatory Listing. Coordinates the handling of all complaints initiated by veterans or their authorized representative with the State and Regional Monitor-Advocates and provides the Regional Monitor Advocate with interpretation of laws and regulations pertaining to Veterans' complaints. Is responsible for elevating to the Director, Veterans Employment Service, Washington, D.C., for decisions or interpretation not attainable at the regional level, and which are necessary for the regional Monitor-Advocate to render proper decisions.

Participates in and contributes to the States Plan of Service planning process on matters related to Veterans services; utilizes input from major regional office components and related program activities as well as incorporating inputs from other Federal agencies, such as HEW, HUD, Civil Service Commission, etc.

Establishes goals and objectives as major core of plan and develops criteria appropriate to the measurement of results in meeting objectives. Implements the plan in harmony with all regional programs and operations.

Responsible for the review and approval of the State VERs fiscal year Plan of Action and travel budget plan. Responsible for approving travel expense within the region to which assigned. Monitors and approves travel expense vouchers of VES personnel assigned within the region. Consults with the respective RAMO regarding actual expenditures.

SUPERVISION RECEIVED

Serves under the general administrative direction and supervision of the Director of the VES who delegates responsibility with corresponding authority for carrying out the legally mandated goals and objectives of the region and the Veterans Employment Service within the region to which assigned. The incumbents performance evaluation for legally mandated VES activities will be prepared by the Director VES.

Serves under the general operational direction and supervision of the Assistant Regional Director for Manpower on veterans activities specifically delegated to the ARDM. The incumbents performance evaluation for veterans activities specifically delegated to the ARDM will be prepared by the ARDM in the region to which assigned.

OTHER SIGNIFICANT FACTS

Incumbent must be a veteran and should have a broad knowledge of the Employment Service and other manpower programs. Must be able to write and speak well and convincingly. Supervisory experience in the Employment Service or manpower field is preferred, as well as experience and interest in, understanding of and concern for veterans and disabled veterans and their problems.

Must be familiar with the objectives, organizational and operational methods of the major veterans organizations to the extent necessary to assist SVERs in providing technical assistance to their ongoing rehabilitation, economic and manpower programs and assist them in the development of and implementation of new programs of this nature to meet the manpower need of veterans.

RESPONSE OF THE DEPARTMENT OF LABOR TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. With respect to S. 2747, the proposed "Veterans' Education and Employment Amendments of 1982", I'm particularly interested in your reaction to the provisions of section 204(a) of that measure that pertain to the funding of the Disabled Veterans Outreach Program. Our intent in this provision was to specify that funds expended for DVOP will be governed only by the provisions of section 2003A of title 38, United States, Code, and not by any other provision of law. It is my hope that this would resolve the kinds of problems that have developed while the program is being funded out of the Grants-to-States account, but would not dilute the mandatory nature of the program.

A. What is your reaction to this provision and, if enacted in its present form, would it achieve this end?

Answer 1A. While I have no objection to the proposed amendment, I do not believe that the language is necessary. The DVOP is being transferred to my office in Fiscal Year 1983. We will assume responsibility for supervision and monitoring of the program and do not believe that previous funding problems will recur.

B. Attached is a minor rewrite we are considering. Do you believe it is preferable to achieving the desired end? [See section 304(a) of S.2913 as reported.]

Answer 1B. The proposed rewrite would allow more flexibility in selecting Disabled Veterans Outreach Program (DVOP) deliverers. However, it was not the current language that caused confusion about funding of DVOP. Again, we do not believe that previous funding problems will recur.

Question 2. As you may know, there has been some discussion regarding the need and desirability of mandating by legislation a regional structure for the Veterans' Employment Service.

A. Please comment on the need for such a regional approach in the VES and your views on the desirability of legislation in this area.

Answer 2A. I support a regional structure for our field operation. However, legislation is not necessary as we are currently operating under a regional structure and will continue to do so.

B. How many regional directors of veterans' employment are there presently and where are they located?

Answer 2B. At present, we have 10 positions for RDVEs, each stationed at one of the Employment and Training Administration Regional Offices located in Boston, New York City, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle. Currently the position in San Francisco is vacant.

C. Are there plans to reduce the number of regional directors in the future, and, if so, which positions would be eliminated? What is your justification for eliminating those positions?

Answer 2C. We feel that the number of RDVEs needed to carry out our functions effectively should be governed by the scope of veteran-related programs and the needs of the veteran community in the area served. For this reason, we feel that our expanding role into more national programs, assumption of the Disabled Veterans Outreach Program and the possible absorption of veterans' reemployment rights and veterans affirmative action programs will better dictate where we station our RDVEs. We are currently assessing these factors to determine how many RDVE's are needed and where they should be stationed.

Question 3. On page 2 of your testimony, you indicate that you expect the reorganization of your office to be approved by the Secretary of Labor in the near future. When it is approved, please provide the organizational chart and mission and functions statements for inclusion in the record of this hearing.

Answer 3. Once approved, we will provide you with a copy of our organizational chart and mission and functions statements.

Question 4A. With respect to vacancies in both your office and in the Veterans' Employment Service, please provide a listing of all vacant positions, the date on which they became vacant, and the status of your attempts to fill them.

Answer 4A. The following chart provides the information requested on our vacancies:

POSITION	VACATED	STATUS
SDVE-Rhode Island	6-1-82	Interviews completed.
SDVE-South Carolina	12-10-81	Request to Personnel to post.
SDVE-Hawaii	11-30-81	Interviews being completed August 18 and August 19.
ASDVE-Maryland	11-16-80	Announcement closes August 17.
ASDVE-Florida	7-27-80	Announcement opens August 20, closes August 30.
ASDVE-North Carolina	11-2-80	Request to Personnel August 9 to post.
ASDVE-Tennessee	6-13-81	Request to Personnel August 9 to post.
ASDVE-Wisconsin	4-19-81	Announcement at printer.
ASDVE-Minnesota	5-31-81	Announcement at printer.
ASDVE-Indiana	3-22-81	Announcement opens week of August 23.
ASDVE-Texas	9-5-81	Paperwork being prepared to post.
ASDVE-Arkansas	5-15-81	Announcement opens week of August 16.
ASDVE-Kansas	10-4-80	Announcement closes August 20.
ASDVE-California	January 1982	Displaced employee rehired. Entered on duty August 9.
Secretary-Vermont	12-31-81	Announcement closed August 9. No candidates. Awaiting OPM cert.
Secretary-Maine	9-1-82	Announcement closed August 13. No candidates.
Secretary-New Jersey	9-28-79	Selection made. Employee entering on duty August 23.
Secretary-Virginia	6-12-81	Announcement closed August 13.
Secretary-West Virginia	2-6-82	Announcement closed August 13.
Secretary-Michigan	1-22-80	Announcement opens August 16. Closes August 25.
Secretary-Illinois	3-1-80	Announcement opens August 19. Closes August 29.

POSITION	VACATED	STATUS
Secretary-Louisiana	3-8-80	Selection made. Employee enters on duty August 23.
Secretary-Texas	8-13-80	Announcement closed August 14.
Secretary-Montana	11-14-81	Request to Personnel to post.
Secretary-Nevada	12-31-78	Announcement closed. No applicants. Additional recruitment underway.
Secretary-Arizona	7-24-82	Announcement opens week of August 23.
Secretary-California	12-13-80	Announcement opens week of August 23.
Secretary-Oregon	1-20-82	Announcement opens August 18. Closes August 27.

B. What are your plans with respect to a Deputy Assistant Secretary for Veterans' Employment position?

Answer 4B. I plan to fill the Deputy position in the near future.

Question 5. You indicated in your testimony that "evaluation and technical assistance visits ... were postponed for lack of travel funds." Please provide specific background on the nature of these visits and the effect that their postponement has had.

Answer 5. As you know, one of the essential functions of the field staff of the Veterans Employment Service (VES) is to monitor, evaluate and provide technical assistance to the various Job Services and Comprehensive Employment and Training Act (CETA) prime sponsors to ensure effective delivery of services to veterans. Such activities require the State Directors for Veterans Employment and their Assistants to visit the Job Service and CETA prime sponsor offices according to their Annual Work Plan.

By the end of the third quarter of FY 1982, only about 50 percent of planned visits had been accomplished. It is projected that approximately 75-80 percent of planned visits can be performed during FY 1982.

The overall effect of postponement of evaluation and technical assistance has not been assessed. However, with the reduction of Job Service staffing levels and displacement of experienced LVERs and DVOPs, services to veterans most likely declined. Emphasis will be placed in ensuring that Job Service staff receive adequate training and technical assistance.

Question 6. On page 3 of your testimony, you note that the Secretary of Labor has approved transfer of all DVOP responsibilities to your office and that you are currently effectuating this transfer. Please provide specific details on how this transfer will be implemented and copies of the documents delinating the transfer.

Answer 6. As stated in my testimony, we are currently effectuating the transfer and will provide you with the final agreement as soon as it is complete.

Question 7. You indicated that you have established a biweekly information mailing. Would you please add the appropriate members of both majority and minority staffs to your mailing list?*

(*Names and addresses to be added:

Brent Goo
Professional Staff Member
Senate Veterans' Affairs Committee
Washington, D.C. 20510

Babette Polzer
Minority Professional Staff Member
Senate Veterans' Affairs Committee
Washington, D.C. 20510)

Answer 7. We will be pleased to add Brent Goo and Babette Polzer to our mailing list.

Question 8. With respect to the outstationing of DVOP staff and the proposal set forth in S. 2747 that would permit a waiver of the requirement that at least 25 percent of DVOP staff be outstationed, if enacted, in how many instances do you expect you would exercise your authority to waive the requirement and how many DVOP staff would remain outstationed?

Answer 8. Waivers to the outstationing of DVOP staff will be determined on an individual request basis. I do not anticipate a large number of requests.

Question 9. You noted that the Department is conducting a study focusing on the cost and overall program and management effectiveness of transferring the Office of Veterans' Reemployment Rights to your office. When that study is completed, please provide a copy of it to the Committee for inclusion in the record.

Answer 9. We will provide you with a copy of the study at its completion.

Question 10. Earlier this year, the Veterans' Employment Service held a conference in Kansas City. What was the cost of this conference and how was expenditure of the funds justified in light of the severe budgetary restrictions imposed on you at the time which had prevented you from filling statutorily-mandated positions in your office?

Answer 10. The total cost of the conference was $32,000. With the ASVE position having been vacant for almost a year, it was imperative that I meet with the VES management field staff as soon as possible to provide badly needed direction.

Question 11. By law, section 2002A of title 38, you are mandated to serve as the Secretary of Labor's principle advisor on matters related to veterans' employment.

A. What arrangements have been made for you to be involved in discussions, policy decisions, and input in the Employment Standards Administration (and specifically, the Office of Federal Contract Compliance regarding implementation of the section 2012 program) and the Employment and Training Administration (relating to various special veterans' emphases under CETA)?

Answer 11A. As Assistant Secretary for Veterans' Employment, I attend all of the Secretary's Executive Council meetings. At those discussions, I provide input and advice pertaining to veteran-related programs and issues, including those involving the Employment Standards Administration and the Employment and Training Administration. My role as principal advisor to the Secretary of Labor on veteran employment and training matters is observed by having free access to the Secretary as required. In addition, all veteran-related materials requiring clearance such as position papers, field instructions and other pertinent documents are required to be reviewed by my office prior to release.

B. Are there individuals on your staff specifically assigned to be the primary contact with those other entities within the Department of Labor? (If so, please identify these individuals by name and provide the names of the individuals with whom they coordinate.)

Answer 11B. There are no individuals assigned specific liaison responsibilities with other Department entities. All staff members work closely with their counterparts at all levels as required to minimize bureaucratic delays and provide prompt service to veterans. Of course, there are staff members who have certain areas of responsibility and expertise who deal with other agency staff on a regular basis.

Question 12. Recently the Department of Labor, through your office, entered into an interagency agreement with the ACTION Agency under which $850,000 will be made available to ACTION for the Vietnam Veterans Leadership Program?

A. (i) To what extent were you personally involved in the decision to make these funds available to ACTION?

(ii) Were you directly involved throughout the decision-making process or were you consulted at any time prior to making the final decision in the Department to award the funds?

(iii) Was Secretary Donovan involved in making the decision?

(iv) Who made the decision?

(v) Did you ever discuss this matter with Secretary Donovan?

(vi) Do you believe that your role in this funding decision complies with the section 2002A mandate that you serve as the principle advisor to the Secretary of Labor in all matters related to veterans' employment?

Answer 12A. I support the Vietnam Veterans Leadership Program and did request consideration for financial assistance for the program from Assistant Secretary of Labor Albert Angrisani. The official request for funding was submitted by ACTION Director Tom Pauken to Assistant Secretary Angrisani for an amount of $2 million in Fiscal Year 1982 monies. Secretary Donovan was aware of our interest to assist ACTION with this project and gave final approval.

My involvement in the decision process was certainly in keeping with my legislated role as principal advisor to the Secretary in all matters related to veterans' employment.

B. In what specific fashion will this $850,000 grant be used to provide job and job training opportunities for veterans? Please provide a complete itemization of the proposed expenditure of funds?

C. Please provide for the record a copy of the interagency agreement.

D. What monitoring and supervision authority will your office have with respect to the implementation of activities funded under this interagency agreement?

Answers 12B, C, and D. The enclosed ACTION Interagency Agreement and ASVE Memorandum No. 9-82 provide the requested information.

ACTION INTERAGENCY AGREEMENT

PAGE 1 OF 4

1. INTERAGENCY AGREEMENT NO. 82-046-1024

2. EFFECTIVE DATE Upon Execution

3. PROJECT/PURCHASE REQUEST NO.

4. ISSUED BY

ACTION
Contracts & Grants Management Division
806 Connecticut Ave., NW.
Washington, DC 20525

5. NAME, TITLE & PHONE NUMBER OF EACH GOVERNMENT PROJECT MONITOR FOR BOTH AGENCIES

Edward Timperlake, Nat. Dir./VVLP R. 600
(ACTION'S PROJECT MONITOR)
254-8270

(DOL AGENCY'S PROJECT MONITOR)

6. AGENCY PERFORMING SERVICE Office of the Assistant Secretary for Veterans' Employment
Dept. of Labor
Washington, D.C.

7. PROJECT TITLE Vietnam Veteran Leadership Program

8. PROJECT OBJECTIVE

To encourage Vietnam veterans to volunteer to help their fellow veterans who have lingering problems associated with their Vietnam military service.

(See page(s) Attachment 1 for work statement)

9. PERFORMANCE PERIOD OF AGREEMENT Twelve months from date of execution

10. ACCOUNTING AND APPROPRIATION DATA

11. DOLLAR VALUE OF AGREEMENT $850,000

12. TRANSFER OF FUNDS

Funds shall be requested by submission of Standard Form 1081 citing this Agreement No. 82-046-1024. This shall be a lump sum transfer of $850,000 upon receipt of SF 1081.

(Any funds not utilized for the performance of the work described in this agreement must be returned to ACTION)

13. PURSUANT TO THE AUTHORITY OF The Economy Act, 31 U.S.C. 686 and the Domestic Volunteer Services Act of 1973, as amended.

(The person executing this agreement for ACTION has a written delegation of authority to do so on behalf of the agency)

14. SIGNATURE OF PERSON AUTHORIZED TO SIGN FOR OTHER AGENCY William Plowden

DATE 8/2/82

16. SIGNATURE OF PERSON AUTHORIZED TO SIGN FOR ACTION Thomas W. Pauken

DATE 8/2/82

15. TYPED NAME & TITLE OF PERSON AUTHORIZED TO SIGN

Dept. of Labor, William C. Plowden,
Asst. Secy. for Veterans' Employment

17. TYPED NAME & TITLE OF PERSON AUTHORIZED TO SIGN

Thomas W. Pauken, Director/ACTION

ACTION Form A-1039 (2/81)

I. Scope of Agreement

A. Background

ACTION will award grants to recruit and support able and successful Vietnam veterans who stand ready, with appropriate support to come forward to help their fellow veterans who have lingering problems associated with their Vietnam military service. Chief among those problems are underemployment and unemployment.

The volunteers will work at the senior levels of the community's business and government structure to help the community build and maintain a coordinated community-wide effort to help the Vietnam veteran. The "eyes and ears" of the volunteers will be the paid project director.

The Vietnam Veterans Leadership Program will (1) encourage Vietnam veterans to step forward as volunteers to help their fellow veterans who have needs; (2) assist in providing effective help for Vietnam veterans who still have significant lingering problems associated with their Vietnam experience, such as underemployment or unemployment.

The program will stimulate a flow of new, able volunteers to complement and reinforce existing government and veterans organization programs. Among the procedures to be used are the following:

1. Identify Vietnam veterans in hiring positions and seek their help and cooperation.
2. Explain the value of military experience and leadership to top executives in one-on-one settings.
3. Increase awareness among veterans of all government employment programs.
4. Facilitate the rapid dissemination of information to Vietnam veterans regarding job openings.
5. Develop a buddy system of veteran employees who counsel and advise new veteran employees within the same organization.

Funds received through this agreement will be used to assist VVLP in reaching its operational goals, as stated in its calendar of milestones for FY 82. Those goals include establishment of 50 local programs and other support activities; 20 local programs are now operational.

B. Target Client Population

While most Vietnam veterans have made a satisfactory readjustment to civilian life, a substantial number of such veterans are still experiencing readjustment problems including lack of education, structural under-employment and unemployment due to psychological and substance abuse problems. These veterans are concentrated, in large part, in major urban areas, may be disabled, are likely to be minorities, and on the average are over 30 years of age. These problems experienced by these veterans often do not occur singly, but in multiples. Moreover, readjustment problems seem to be directly related to service in Vietnam. A 1980 study conducted by the Center for Policy Research for the VA observed that many veterans still show some residual disadvantage in educational and occupational attainment.

C. Program Objectives

Volunteers will use their leadership, management and other professional skills, and community and local government contacts to encourage Vietnam veterans to make full use of all government and veterans organization programs and resources that aid Vietnam veterans. The volunteers will donate professional services and resources as appropriate to:

1. Increase the receptivity of employers in each community to hiring Vietnam veterans through contacts with Vietnam veterans occupying key positions in business and industry;

2. Persuade local institutions to make more resources available to the solution of Vietnam veterans' problems;

3. Encourage and help Vietnam veterans to make full use of all federal, state, and community government activities that support them (for example: programs of VA, HHS, DOL and SBA).

4. Encourage and help Vietnam veterans to make full use of all volunteer activities that support them, especially those of the veterans organizations;

5. Aid and support (when appropriate) the Veterans Administration Vietnam veterans counseling centers; and

6. Encourage membership in veteran volunteer programs (such as Veterans Administration Volunteer Services).

D. Program Implementation

Projects will have a project director to serve as a catalyst for volunteer activity. The directors will be able and successful Vietnam veterans who are willing to contribute a portion of their lives to help their fellow veterans before returning to their businesses or professions.

E. Program Authority

This agreement will operate consistent with existing DOL authority for discretionary funds.

II. Programmatic Reports

ACTION agrees to provide quarterly reports to DOL, relative to the progress of work under this agreement and additional reports upon request from the OASVE.

III. Financial Reports

ACTION agrees to provide financial reports to DOL of expenditures utilizing standard object classification reporting and additional reports upon request from the OASVE.

IV. Selection of Grantees

ACTION will make final grant award decisions and shall be responsible for grant administration.

V. Project Monitors

Within thirty days of the execution of this agreement, DOL and ACTION shall designate the Project Monitor for their respective agency.

VI. Program Review

Consideration for additional funding will be based on an assessment by DOL of overall progress of VVLP.and availability of funds.

VII. Statement of Work

As contained in Attachment 1 -END-

VIETNAM VETERANS LEADERSHIP PROGRAM

Single project budget for 1 year

A. Direct costs:	
1. Staff salaries	$36,000
(a) Director	27,000
(b) Secretary	9,000
2. Fringe benefits for staff at 20 percent of salary	7,200
3. Staff travel	2,500
(a) 667 miles at 22.5 cents per mile times 12 months	1,800
(b) Airfare for TNG conference	325
(c) Per diem for TNG conference at $75 per day times 5 equals	375
4. Materials and supplies	1/
5. Communications (telephone and postage)	1/
6. Supportive services (including rent equipment)	1/
Total direct costs	45,700
B. Indirect costs: Overhead, general and administrative costs at 15 percent of direct costs	6,855
Total annual budget	52,555

1/ Donated.

U.S. Department of Labor

Assistant Secretary for
Veterans' Employment
Washington, D.C. 20210

August 9, 1982

ASVE MEMORANDUM NO. 9-82

TO: ALL REGIONAL AND STATE DIRECTORS FOR VETERANS EMPLOYMENT

FROM: WILLIAM C. PLOWDEN, JR.
Assistant Secretary for
Veterans' Employment

SUBJECT: Funding of 15 New Programs for Vietnam Veterans Thru ACTION

This is to inform you that an Interagency Agreement with ACTION has been finalized that will provide $850,000 for 15 new programs in various cities to assist Vietnam veterans. The money will be used by the Vietnam Veterans Leadership Program (VVLP) to encourage successful Vietnam veterans to step forward and assist their fellow veterans who still have needs and problems.

The selection of the 15 cities where these specifically tailored programs will be established is presently under consideration and the final locations will be forwarded to you as soon as possible. I am attaching several documents that will give some specific information on this program.

As one of the principals in the Agreement, it is our responsibility to lend assistance whenever possible. This assistance can be rendered in various ways from direct involvement such as evaluation of program progress to recommending participants. Consequently, you are expected to report any contacts you may have had with the VVLP during the previous quarterly reporting period or sooner if you determine that the information should be disseminated expeditiously.

Attachments

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: Richard Schweiker
for the Cabinet Council on Human Resources

SUBJECT: Decision on Proposed ACTION Program for Vietnam Veterans

At a meeting on June 9, 1981, the Human Resources Cabinet Council, with the Vice President's concurrence, approved an outreach program for Vietnam Veterans proposed by Thomas Pauken, Director of ACTION. The program would encourage able and successful Vietnam veterans to serve in their communities as volunteers to help fellow Vietnam veterans with lingering problems associated with their military service. The proposal is endorsed by the Human Resources Secretariat and the Office of Management and Budget.

The ACTION program will complement the already existing federal, local, and private veterans programs, and place particular emphasis on working closely with the Veterans Administration and the traditional veterans organizations.

The program will begin with a pilot phase in some four or five test communities which will last long enough to assure effectiveness.

Assuming a successful pilot phase, the operational phase will proceed in some 50 communities under a national project director and a local ACTION director in each community. Cost for the pilot phase is estimated at under $200,000, now funded by ACTION. The operational phase is estimated at $2 million per year from direct budget authority and appropriation to ACTION, and/or fund transfers from other federal agencies which have an interest in veterans.

The ACTION Program would be planned to end in late 1983 or early 1984 with the continuing flow of volunteers to be handled by existing agencies and programs.

RECOMMENDATION: The Human Resources Cabinet Council unanimously recommends that implementation of the ACTION program be given high visibility with participation by the President and senior Administration officials.

DECISION:

[✓ RR] approve ____approve as amended ____reject ____no action

DATED: JULY 16, 1981

VIETNAM VETERANS LEADERSHIP PROGRAM

PROGRAM DIRECTORS

Patrick F. Chorpenning, Program Director
Vietnam Veterans Leadership Program
4949 West Indian School Road
Phoenix, AR 85031
602/245-0092

Donald E. Grigg, Program Director
Vietnam Veterans Leadership Program
Director of Personnel
Univerity of Arkansas
Pine Bluff, Arkansas 71601
501/879-3294

Roland Cinciarralli, Program Director
Vietnam Veterans Leadership Program
Beneficial Plaza Building, Suite 855
3700 Wilshire Blvd.
Los Angeles, CA 90010
213/381-5079

David M. Szumowski, Program Director
Vietnam Veterans Leadership Program
751-7th Avenue
San Diego, CA 92101
714/235-VVLP

Vadon L. McIlwain, Co-Program Director
Vietnam Veterans Leadership Program
2732 Park Place
Modesto, CA 95350
209/529-2924

Jeff Wilcox, Co-Program Director
Vietnam Veterans Leadership Program
c/o Glen Kendall
Kendall Associates, Suite 400
609 Mission
San Francisco, CA 94105
415/981-4930

Dennis Peaslee, Program Director
Vietnam Veterans Leadership Program
250 Constitution Plaza
Hartford, CT 06103
203/525-4451

Honorable Wayne R. Hanby, Program Director
Vietnam Veterans Leadership Program
Delaware State Office Bldg.
Consumer Affairs, 4th Floor
820 N. French Street
Wilmington, Delaware 19801
302/571-3250

VVLP Program Directors continued

Indiana has none yet

Richard Eilert, Program Director
Vietnam Veterans Leadership Program
577 Applegate Lane
Lake Zurich, IL 60047
312/520-3480

David DeChant, Program Director
Vietnam Veterans Leadership Program
10 Light Street, Suite 2601
Baltimore, MD 21202
301/727-2972

Patrick J. Schommer, Program Director
Vietnam Veterans Leadership Program
6289 Magnolia
St. Louis, Missouri 63139
314/436-2420

John M. Garcia, Program Director
Vietnam Veterans Leadership Program
Penn lo Plaza
7833 Lomas N.E., Suite 8
Albuquerque, NM 87110 505/265-1311

Eugene Gitelson, Program Director
Vietnam Veterans Leadership Program
56 Perry Street
New York, NY 10014
212/581 6633

James McCloskey, Program Director
Vietnam Veterans Leadership Program
8010 Albion Street
Philadelphia, PA 19136
215/331-2166

Dave Ressl, Program Director
Vietnam Veterans Leadership Program
111 New York Street
Rapid City, SD 57701
605/348-4445

Fred Tucker, Program Director
Vietnam Veterans Leadership Program
215 8th Avenue North, 3rd Floor
Nashville, TN 37203
615/741-2345

Stanley C. Horton, Program Director
Vietnam Veterans Leadership Program
P.O. Box 770791
Houston, TX 77215
713/498-3189

VVLP Program Directors continued

William Stensland, Program Director
Vietnam Veterans Leadership Program
8626 Tesoro Drive, Suite 112
San Antonio, TX 78217
512/822-0211 or 0451

William Fagginger-Auer, Program Director
Vietnam Veterans Leadership Program
P.O. Box 126
Waterbury Center, VT 05677
802/244-5936

Virginia has none yet

Richard Michael McWatters, Program Director
Vietnam Veterans Leadership Program
Pioneer Bldg., #229
Seattle, WA 98104
206/343-5590

	Employment	Recognition Events	Small Business Development	Public Education	Health Education	Incarcerated Veterans	Public Information	Art Shows	Diabled Veterans Opportunities	Liaison/ Coordination	Other
Albuquerque	X	X					X				
Arkansas	X						X			X	
Baltimore	X	X		X	X		X				X
Chicago	X		X			X	X	X			
Hartford	X	X					X				
Houston	X						X	X			
New York	X	X	X	X			X				
Northern California	X	X	X				X				
Philadelphia	X						X			X	
Phoenix	X						X				
St. Louis	X	X					X	X			
San Antonio	X	X	X				X	X			
Seattle	X				X	X	X	X			
South Dakota	X	X					X			X	X
Southern California	X					X	X				
Tennessee	X	X					X				
Vermont	X	X	X			X	X			X	
Wilmington	X	X	X	X			X		X		

Question 13. On July 16, the Department of Labor announced that you and Veterans' Affairs Administrator Robert P. Nimmo had issued an updated interagency agreement providing for the coordination and cooperation in the development and administration of veterans programs.

A. Please provide a copy of that agreement for the record.

Answer 13A. A copy of the Veterans Administration (VA)/Department of Labor Agreement is enclosed. [See Agreement at end of Answer 3 to Senator Simpson's written questions.]

B. Would you please comment on any substantive improvements that have been made in this agreement and how those improvements will better serve the needs of veterans?

Answer 13B. This updated agreement now covers required interfacing between the VA and all DOL agencies with veteran-related responsibilities. The previous agreement was restricted to VA and the United States Employment Service (which included the Veterans Employment Service when signed in 1967). By specifying which components of both the VA and DOL are covered by the agreement and spelling out actions they must take to fulfill the agreement, we expect that veterans will be better served. Additionally, the agreement calls for development of state-level agreements which will be tailored to local needs and circumstances.

Question 14. With respect to DVOP generally --

A. How many DVOP staff are presently on board?

Answer 14A. As of August 10, there were 1,898 DVOP staff on board.

B. What percentage of DVOP are service-connected Vietnam-era veterans? What percentage are service-connected disabled?

Answer 14B. DVOP staff are comprised of: 63% service-connected disabled Vietnam-era veterans; 7% service-connected disabled veterans; and 30% other veterans. There are no DVOP staff who are non-veterans.

C. How many and what percentage are outstationed? How many are outstationed at VA vet centers?

Answer 14C. As of August 10, 1982, 358, or 18.8%, of the DVOP staff were outstationed on a full-time basis. In addition, 28, or 2.8%, of the DVOP staff were outstationed on a part-time basis.

We do not currently have the number of staff outstationed at VA Veterans Assistance Centers.

D. What steps is the Department taking to insure that DVOP staff vacancies are filled and that they are filled pursuant to the intent of the Congress and the requirements of section 2003A of title 38?

Answer 14D. The Department has issued directives implementing the permanent DVOP and advising States that DVOP position usage will be monitored, and, as necessary, funds not appropriately spent would be recaptured.

E. What plans does the Department have for funding of this program in fiscal year 1983?

Answer 14E. The Department budget for FY 1983 provides for the funding of the DVOP from Federal Unemployment Trust funds (Grants to States).

F. Are alternative arrangements for funding being considered for fiscal year 1983 or beyond?

Answer 14F. My Fiscal Year 1984 budget request provides for DVOP funding from general revenues. The final departmental budget for Fiscal 1984 has not been approved.

Question 15. Section 210 of S. 2747 would repeal the authority for the Exemplary Rehabilitation Certificate program, and you have supported that repealer.

Answer 15. I continue to support repeal of the legislation authorizing the Exemplary Rehabilitation program as provided by Section 210 of S.2747.

A. Please provide a description of this program, a discussion of the activities that have been conducted under it, and a complete justification for the repeal of the authority.

Answer 15A. The Secretary of Labor currently may issue an Exemplary Rehabilitation Certificate (ERC) to any individual released or discharged from one of the military services under conditions other than honorable or who received a general discharge. The Secretary may issue such certificate if it is established that the individual has been rehabilitated and that the person's character, conduct, activities, and habits since his/her discharge or dismissal have been exemplary for a reasonable period of time (at least 3 years). The issuance of an ERC does not change the character of a discharge in any way. It thus does not provide eligibility for any new benefits, entitlements, or services otherwise denied because of discharge status.

From its inception in 1967 through calendar year 1981, only 2,704 applications have been received and 1,339 ERC's have been issued. Currently, the program annually generates approximately 500-600 requests for applications. Research has shown that certificate recipients have received few if any benefits in seeking and retaining employment as Congress intended -- only 11% reported that the certificate helped them.

Persons inquiring about the program stated that the chief reason they did not wish to complete the application was because it would not change the nature of their military discharge in any way and would, in fact, emphasize to employers that they had received a "bad discharge" from military service.

B. In fiscal year 1981, how many exemplary rehabilitation certificates were issued?

Answer 15B. The law (P.L. 90-83, Section 6) requires an annual report to Congress no later than January 15 each year covering the previous calendar year. In calendar year 1981, there were 78 ERC's issued.

C. What costs were associated with this program in fiscal year 1981? What are the projected costs of the program in fiscal years 1982 and 1983?

Answer 15C. Repeal would allow much better utilization of about one-half of a professional position and one-half of a clerical position, and save about $5,000 in miscellaneous printing and supplies.

D. Does the Department of Defense concur in your position that this authority should be repealed.

Answer 15D. It is our understanding that the Department of Defense (DOD) does not concur with the repeal of the ERC legislation. However, when my prepared statement for the June 22, 1982, hearing before the Subcommittee on Education, Training and Employment of the Committee of Veterans' Affairs of the U.S. House of Representatives was being cleared through the Administration, DOD raised no objections. That statement contained my expression of support for repeal of ERC.

Question 16. On June 30, 1982, Ron Drach, National Employment Director of the Disabled American Veterans, wrote to you regarding your testimony before the House Veterans' Affairs Committee's Subcommittee on Education, Employment and Training on June 22. Please provide, for the record, a copy of your response to that letter.

Answer 16. The requested letter is enclosed.

U.S. Department of Labor

Assistant Secretary for
Veterans' Employment
Washington, D.C. 20210

JUL 15 1982

Mr. Ronald W. Drach
National Employment Director
Disabled American Veterans
807 Maine Avenue, S.W.
Washington, D. C. 20024

Dear Mr. Drach:

Thank you for your letter of June 30, 1982, in which you ask several questions concerning my statement made on June 22, 1982, before the House Subcommittee on Education, Employment, and Training of the Committee on Veterans' Affairs.

Concerning the Disabled Veterans Outreach Program, enclosed is a listing of average salary and benefits rates for fiscal year 1982, by state. We will be receiving an update of the other information you requested on DVOP staffing in the next weekly report from our field staff. We will provide this information to you as soon as it is available.

Following are my responses to each of your questions concerning issues dealing with the Office of Federal Contract Compliance Programs:

1. What do you see as being your "national obligations under these programs"?

   Answer: Chapter 41, Title 38, U.S.C., designates my position as the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out the purposes of Chapters 41, 42, and 43, and all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans. This requires the active involvement of the national office and the field in ensuring that policy and program matters conform to legislative requirements.

2. What "functional oversight roles" does your office and your field staff currently exercise?

   Answer: At the national level we provide functional oversight over policy and program matters. This includes review and recommendations on OFCCP veteran related matters. In the field, VES staff provide needed program coordination, review of Federal Contractor Job Listing activities provided by the Job Service, assist with FCJL/OFCCP veteran complaints, and assist with FCJL/OFCCP employer promotional activities.

3. How often do you meet with the Director of OFCCP and the Deputy Under Secretary for Employment Standards?

Answer: Although not regularly scheduled, I have had several meetings with OFCCP Director Ellen M. Shong and Deputy Under Secretary Robert B. Collyer and will continue to do so as needed. Additionally, my staff have also met with them and with staff from their offices. We are currently discussing the potential options for replacing the Dun and Bradstreet notice of contract award and the contractor quarterly report.

4. What ongoing relationship does your office have with the national office of OFCCP?

Answer: In addition to what I have stated in the answer to question three, our staffs work very closely and have access to each other whenever necessary.

5. What relationship does your field staff have with the regional and area offices of OFCCP?

Answer: The field staffs of the VES and OFCCP have a good working relationship. They exchange information and refer clients and employers as appropriate.

6. How often do you require your State Directors and Assistant State Directors to meet with area office managers of OFCCP?

Answer: There is no established requirement for our field staff to meet with OFCCP staff. As previously stated, they have a good working relationship and meet when necessary.

7. Are you or any staff member working with OFCCP regarding any regulatory changes to the Affirmative Action Program?

Answer: As you know, OFCCP has had major regulatory revisions in process for some time. We have provided them with comments and suggestions not only in the formal clearance process, but also informally between staff members. Apparently OFCCP has run into some difficulties in portions of other regulations not pertaining to veterans' affirmative action which are causing delays in publishing. We intend to keep in touch with them in regard to regulations as well as the other areas we have previously mentioned.

8. What is your office doing to assure timeliness of resolution of complaints through OFCCP?

Answer: As I stated previously, I have met with Ms. Shong and Mr. Collyer several times concerning areas of mutual concern. Veteran complaint processing is one of the topics we continue to stress. I plan to have the Veterans Employment Service field staff get more involved within the limitations of budget restrictions.

9. What are you doing personally to assure the Director of OFCCP allocates additional resources to the Veterans Program as promised?

   Answer: I will continue to work closely with Director Shong and Deputy Under Secretary Collyer. I will specifically pursue the issue of the increased resources with them.

I would appreciate it if you would share your ideas and suggestions for improvements with me and my staff. As I have pledged to you before, we want to work closely with all parties concerned with assisting veterans. Please let me know if I can provide you with additional information.

Sincerely,

WILLIAM C. PLOWDEN, JR.
Assistant Secretary for
Veterans' Employment

Enclosure

REVISED FY 1982 APPROVED STATE AGENCY SALARY AND BENEFIT RATES

	DVOP STAFF Employment Service Position Cost
REGION I	
Connecticut	22,569
Maine	18,280
Massachusetts	17,618
New Hampshire	17,079
Rhode Island	21,831
Vermont	20,118
REGION II	
New Jersey	20,837
New York	23,546
Puerto Rico	11,250
Virgin Islands	17,440
REGION III	
Delaware	22,258
DCMA	22,595
Maryland	20,074
Pennsylvania	26,196
Virginia	19,023
West Virginia	18,253
REGION IV	
Alabama	19,903
Florida	18,003
Georgia	20,865
Kentucky	17,223
Mississippi	19,690
North Carolina	19,518
South Carolina	19,376
Tennessee	15,618
REGION V	
Illinois	22,144
Indiana	17,929
Michigan	26,793
Minnesota	21,601
Ohio	18,117
Wisconsin	22,069
REGION VI	
Arkansas	18,477
Louisiana	22,876
New Mexico	21,154
Oklahoma	27,735
Texas	24,182
REGION VII	
Iowa	20,833
Kansas	19,497
Missouri	19,189
Nebraska	24,544
REGION VIII	
Colorado	25,061
Montana	22,100
North Dakota	28,805
South Dakota	19,524
Utah	29,196
Wyoming	24,024
REGION IX	
Arizona	21,784
California	28,074
Guam	16,254
Hawaii	21,057
Nevada	23,551
REGION X	
Alaska	37,345
Idaho	27,854
Oregon	22,505
Washington	23,177

Question 17. Please provide a breakdown of the way in which funds available to your office for veterans' outreach and public information activities ($2.6 million in fiscal year 1981 and $1.3 million in fiscal year 1982) were allocated and expended?

Answer 17. National programs authorized under the Comprehensive Employment and Training Act (CETA), Section 305 (Veterans) for Fiscal Year 1981 and Fiscal Year 1982 are as follows:

Fiscal Year 1981 ($2.6 million)

U.S. Veterans Assistance Centers	$872,000
Detroit (Neighborhood Services Department)	90,000
Oakland (Department of Social Services)	104,000
Seattle (Department of Human Resources)	28,000
American Association of Community and Junior Colleges	52,000
University of Minnesota	63,000
Blinded Veterans Association	175,000
National Urban League	416,000
National American G.I. Forum	350,000
National Black Veterans Organization	44,000
Community Systems Design, Inc.	172,000
Center for Community Economics, Inc.	118,000
St. Louis American Veterans Consortium, Inc.	34,000
American G.I. Forum (San Jose, California)	21,000
Swords to Plowshares, Inc.	25,000

Fiscal Year 1982 ($1.3 million)

American G.I. Forum	$350,000
National Urban League	220,000
Blinded Veterans Association	200,000
Veterans Outreach and Community Services Program, City of Philadelphia	150,000
U.S. Veterans Assistance Centers	300,000
Veterans Upgrade Center of New York	40,000
Unobligated	40,000

RESPONSE OF THE DEPARTMENT OF LABOR TO WRITTEN QUESTIONS SUBMITTED BY HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM THE STATE OF MAINE

Question 1. How much does the administration propose to spend on the DVOP program in fiscal year '83?

Answer 1.

Budgeted cost for FY 1983 is estimated at $62,700,000. This includes $48,500,000 for personnel costs/benefits; $12,700,000 non-personal services costs; and $1,500,000 for postage.

Question 2. As you know, funding for the DVOP in FY '82 was transferred from CETA Title III discretionary funds to the Grants-to-States program which funds the Job Service. According to a letter from Secretary Donovan this transfer in funding precluded the Department of Labor from entering into a contract with the Maine American Legion, as had been the case since 1977. As a result, the Department of Labor ordered Maine's DVOP to be absorbed by the Maine State Job Service.

S. 2747 would make several changes in the law governing the DVOP program. One of these changes states that "Funds provided to states under this section shall be subject to the supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section."

Do you support this language?

Answer 2.

While I have no objection to the proposed amendment, I do not believe that the language is necessary. The DVOP is being transferred to my office in Fiscal Year 1983. We will assume supervision and monitoring of the program.

Question 3. In your opinion, would the above change allow either the Department of Labor or the State of Maine to contract with a non-profit veterans organization, such as the Maine American Legion, even if the funds in question came from the Grants-to-States program which the Department of Labor maintains precludes the Job Service from contracting with the Legion to Administer the program?

Answer 3.

The Department would still be required to provide funding to the State government. However, in other respects, the proposed amendment would not further restrict program administration decisions. The amendment simply provides that the DVOP be administered by the ASVE. Additionally, subsequent appropriations will govern the funding sources for DVOP and may, in fact, provide instructions for fund usage.

Question 4. If this provision is enacted, would the Department of Labor consider contracting with the Maine American Legion to administer the program as was the case prior to April of this year?

Answer 4.

I would not rule out any options for administering the DVOP.

Question 5. . If not, why not?

Answer 5.

My primary interest is to maintain an effective DVOP. This requires frequent assessment of the program, including the delivery system.

Question 6. Are you familiar with Maine's DVOP since it has been run by the Maine Job Service?

Answer 6.

Yes, our field staff regularly reviews the Maine DVOP and reports their findings to my office.

Question 7. In your view, is the program as effective under the Job Service as it was under the American Legion?

Answer 7.

We are initiating a reporting system in Maine to provide a weekly activity report on DVOP accomplishments to measure program effectiveness. Preliminary findings indicate that DVOP is performing effectively. I am unable to make a comparison with the American Legion program at this time.

Question 8. Do you know how many veterans have been placed in jobs or job training programs by DVOP specialists since the program was absorbed by the Job Service?

Answer 8.

Because of recency of the programs, we do not have this information at present.

Question 9. How many DVOP specialists are currently on board in Maine? Are there any plans to hire more?

Answer 9.

As of August 10, 1982, there are 10 DVOP staff members on board in Maine, with three of these outstationed at non-Job Service facilities. For Fiscal Year 1983, Maine will be allocated one (1) additional position for a total of 11 DVOP positions.

Question 10. Section 2003 A (b)(1) of Title 38, U.S.C., states that DVOP specialists shall be assigned "only those duties directly related to meeting the employment needs of eligible veterans.

To your knowledge, are the DVOP specialists in Maine being asked to perform any other functions other than those prescribed by law? What about elsewhere in the country?

Answer 10.

During the initial period when the DVOP was transferred from the American Legion to the Job Service, DVOP staff went through a training phase at which time they did perform some functions outside the requirements prescribed by P.L. 96-466. However, this was helpful to the staff for purposes of familiarity with the Job Service system. Job Service Director Leonard Nilson and SDVE William J. Rogers have assured me that DVOP staff now perform only those functions prescribed by law. Please be assured that the DVOP is being monitored nationwide to insure that the program operates according to requirements.

Chairman SIMPSON. I welcome Senator Mitchell to the proceedings. If you have any kind of opening statement that you might wish to make you might feel free to do so. Just wait just a moment while we are getting the next bunch here.

I will introduce these people for the record. Neil Singer. And you might introduce your persons and then Senator Mitchell will proceed, if he wishes.

Mr. SINGER. Thank you, Mr. Chairman. Accompanying me today are Mr. Dan Huck on my left and Mr. Ed Shephard on my right, from our office.

Chairman SIMPSON. OK. And George, if you have any comments, feel free to do so.

Senator MITCHELL. Thank you, Mr. Chairman. I have a brief statement.

I commend you for holding these important hearings on veterans' training and employment issues and I welcome the representatives of the administration, Secretary Plowden and the others, as well as representatives of the service organizations here today.

Although unemployment can affect all Americans, unemployment among veterans, particularly those of the Vietnam era, continues to be higher than the national average. More than 700,000 Vietnam veterans over the age of 25 are currently unemployed. Unemployment for those Vietnam-era veterans in certain age categories rose as high as 17 percent in June.

I am pleased that the Senate recently adopted an amendment to the jobs training bill requiring the Secretary of Labor to set aside a certain percentage of funds for veterans' training programs. In addition, that amendment recognized for the first time that veterans' unemployment is a national problem and a national responsibility. And further, that special programs are required to assist veterans in meeting their employment and training needs.

I am particularly concerned about the future of the disabled veterans' outreach program in Maine. Until April of this year that program was administered through the American Legion through a contract with the Department of Labor. In fiscal year 1982 funding for Maine's program was changed from CETA title 3 discretionary funds to the grants-to-States program which funds the Job Service.

The Department of Labor maintained that this change in funding precluded either the Department or the Maine job service from contracting with the American Legion in Maine to run the program. As a result, the program was ordered to be absorbed by the Job Service.

It is my understanding that when Congress established the disabled veterans' outreach program on an experimental basis in 1977, it was the intent of Congress to give the Secretary of Labor the authority to contract directly with nonprofit organizations. Clearly, this was the intent of Congress in 1980 when it made DVOP a permanent program.

Section 2003A(a)(1) of title 38, United States Code, states that the Secretary of Labor, "shall make available to each State directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans." I find it difficult to believe that a mere change in the funding basis could thwart congressional intent with respect to such an important program. That is precisely what has happened.

In May, I introduced a bill which would have required the Secretary of Labor to contract with the American Legion to administer the program. There is some question as to whether the changes in section 2003(A) as envisioned by S. 2747 would give the Secretary the authority to contract with a nonprofit organization such as the American Legion to run the program.

I am hopeful, Mr. Chairman, that with your cooperation and the cooperation of other members of the committee we can clear up this matter and bring current practice back into line with what plainly was the intent of Congress when this legislation was enacted.

In conclusion, I want to thank you, Mr. Chairman, for conducting these hearings. I look forward to working with you. The questions which I will submit to Secretary Plowden deal with the subject matter which I have described in my statement.

Chairman SIMPSON. I thank you very much, Senator Mitchell, for your interest and your participation in this committee.

And now, Mr. Singer, please, if you will proceed. Thank you for your courtesy.

TESTIMONY OF NEIL M. SINGER, PRINCIPAL ANALYST, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, CONGRESSIONAL BUDGET OFFICE, ACCOMPANIED BY DAN HUCK AND EDWARD SHEPHARD

Mr. SINGER. Thank you, Mr. Chairman.

It is my pleasure to appear today to present the results of the Congressional Budget Office's analysis of one of the provisions of S. 2747. My comments will be limited to section 104(a) of the bill, which would modify the current December 31, 1989, termination date for GI bill educational benefits. In the interest of time I will excerpt from my prepared statement.

Chairman SIMPSON. Thank you.

Mr. SINGER. The Congressional Budget Office's analysis indicates that extension of the termination date would have only a small impact on projected separations among service members eligible for GI bill benefits. The CBO estimates that, between now and the end of 1987, modification of the termination date as prescribed in section 104(a) would result in the retention of approximately 1,300 members—in all skills and all services—who would otherwise leave active duty.

This change would represent a reduction of only about one-half of 1 percent in the 220,000 projected separations by enlisted members who are currently eligible for GI bill benefits, most of whom will leave service for reasons unrelated to their use of the GI bill. In other words, by 1987, the extension of benefits in section 104(a) would increase by only one-tenth of 1 percent the projected career enlisted force of more than 1 million.

If benefit levels were adjusted automatically—that is, indexed—to keep pace with inflation, the reduction in separations would still be only 2,700 members, or 1.2 percent of the 220,000 projected separations. Moreover, section 104(a) would actually increase post-1987 separations, as I will discuss in a moment.

Modification of the termination date, with benefits either indexed or not, would lead to a deferral of the use of GI bill benefits by members who were dissuaded from separating prematurely. The short-run savings caused by this deferral, however, would be greatly outweighed by the long-term use of GI bill benefits by service members whose eligibility otherwise would end in 1989.

The marginal reduction in enlisted separations that would result would yield cumulative savings of approximately $14 million between fiscal years 1983 and 1989. CBO estimates, however, that the proposed extension would increase cumulative post-1989 outlays by approximately $725 million. If benefits were indexed to the inflation rate, cumulative 1983–89 savings would be $38 million, but post-1989 total outlays would increase by $2.8 billion.

Extension of the termination date thus seems a quite expensive way to improve career enlisted manning. The CBO estimates that the cost per additional service member would be approximately $550,000 for an unindexed program, or $1 million if benefits were indexed.

Annual across-the-board pay raises of one-tenth of 1 percent between 1983 and 1987 could produce the same 1,300-member reduction in separations, but at a cost of only $218 million rather than $725 million. Selective reenlistment bonuses would be even more efficient, at a cost of $40 to $120 million, depending on members' length of service.

Bonuses would also be more efficient, because they would retain the skilled personnel whom the services need most. In contrast, extending the availability of GI bill benefits beyond 1989 would be of equal value to all service members. Therefore, many of the estimated 1,300 members who would remain in service rather than separate prematurely would probably be in skills in which the services do not project manning shortages. In terms of ameliorating the services' actual manpower problems in critical skills, therefore, the section 104(a) extension would be even less efficient than shown by our calculations.

A further difficulty with the proposed extension is that it would only defer and not eliminate the incentive for members to separate from service eventually in order to use their GI bill benefits. The CBO estimates that, under section 104(a), the services would experience 470 more separations between 1988 and 1990 than would occur under current law. These additional, more distant, separations would partially offset the near-term or pre-1987 manpower gains that section 104(a) would achieve.

Despite the high relative cost of reducing premature separations by modifying the GI bill termination date, considerations of equity might still make the extension desirable. Survey data and anecdotal information suggest that senior service members are very sensitive to the appearance of inequity posed by the 1989 date. Nearly all persons who have served in the military during the last 4 decades have been eligible for GI bill benefits. Yet today's career members, who have served longer than most, will lose their benefits because of a change in law made during their term of service. This issue of equity may counterbalance the high long-term costs of section 104(a).

The CBO's analysis of this fairness issue, however, suggests other ways in which the separation incentive of the 1989 termination date could be alleviated. One approach would be to offer those active-duty members who have earned GI bill benefits the right to receive in cash part of the value of their entitlement—say, 25 percent—in return for at least one additional reenlistment and forfeiture of rights to future training. Such a "cash out" would be less selective and therefore more costly than current reenlistment bonuses. But it would confer offsetting savings in the form of bonus cost reductions, would improve career manning in the short run, and would eliminate the long-run incentive for members to separate to use their GI bill benefits.

A more complex alternative would be to offer senior members the option to transfer their GI bill chapter 34 entitlement to the current veterans' educational assistance program, chapter 32. Although the basic benefits under chapter 32 are substantially less valuable to members than the GI bill, the Defense Department is authorized to provide supplemental benefits, called "kickers," to encourage recruiting and retention. At present, the Department uses these kickers only for recruiting, but there is no bar to extending these benefits to senior personnel in shortage skills at the Department's discretion. An advantage to this approach is that kickers could be targeted toward critical personnel and thus could be more efficient than any across-the-board incentives such as those provided under section 104(a). A disadvantage, however, is that the eventual incentive to separate to use educational benefits would remain.

Mr. Chairman, this concludes my prepared statement. We would be happy to respond to your questions.

Chairman SIMPSON. Thank you very much.

Would you repeat for the committee your estimate as to how many career service personnel are eligible to retire now to use their benefits? And how many do you estimate will do just that?

Mr. SINGER. A little over 700,000 enlisted members are currently eligible to use GI bill benefits. Not to retire and use GI bill benefits, but to separate at this point. That is, they have earned an entitlement on the basis of prior service.

Our estimate is that if the section 104(a) extension modification were put into effect, the number of "premature separations"—I will define that term in a moment—would decrease by 1,300 between now and 1987. And then there would be some slight increase in separations after that date.

By "premature separations," I mean separations earlier than would occur if members were to retain their GI bill entitlements after 1989. So, the difference between separations at retirement and premature separations is that some members might separate before retirement and yet still lose GI bill benefits.

Chairman SIMPSON. Do you consider that a conservative estimate or top-of-the-line estimate or where in your analysis?

Mr. SINGER. We included in our estimate a number of factors that lead us to think that the cost estimate is conservative. That is, we used a low discount rate to try to correct for the influence of time, and we have used conservative projections of force manning. By and large, I think that it is not an excessive estimate that we have made.

In addition, in estimating the costs, we took a conservative estimate of cost based on prior use patterns.

Chairman SIMPSON. How many hard-to-replace skilled personnel, critical personnel, would you estimate would be actually lost without this modification? And how many retained if it were to pass?

Mr. SINGER. I'm sorry, Mr. Chairman, but we don't have the capability to address the question.

Chairman SIMPSON. What?

Mr. SINGER. We don't have the capability to answer the question. And as far as I know, there is no formal capability to address it. The problem is that the methods that are used to project retention are not, "skills specific." That is, they do not project the different patterns of retention of service members in different occupational specialties.

We have no ability to say that, say, hard-to-replace people will separate more or with higher or lower probability than people in nonshortage skills. Thus, all we can do is project forcewide behavior and anticipate that there will be some departures from that behavior with respect to people in individual specialties.

Mr. HUCK. Mr. Chairman, if I could offer a clarification as well, though. What we have said in the testimony is that the number of separations that will occur between now and 1989 will be 1,300 fewer than would otherwise be the case if you decide to extend the 1989 termination date or eliminate that termination date.

Chairman SIMPSON. But you are really saying that the modification of extending the GI bill by DOD will not produce the desired change in behavior that would keep the serviceperson with the critical skill from leaving the service?

Mr. SINGER. Well, we don't know how many more critical people DOD wants. I think that DOD doesn't know how many more it wants. It knows that it wants more. It knows that the separation of people in critical skills is more important than separation of people in other skills.

But I don't believe that anybody could say that, in 1989 the services will be short some specific number of people in critical skills. I know that we can't say that, and I am fairly confident that the Department can't say it either.

What we can say is that if, say, 50 percent—which is probably an overestimate—of all senior servicemembers are in critical skills, then our methodology would project that half of the 1,300 premature separations avoided by section 104(a) would be in critical skills. Now, my own belief is that that is an overestimate of the number of separations that would be avoided. Or to put it another way, the number of additional critical skill personnel would be smaller than 650 under that 50-percent assumption.

Chairman SIMPSON. But in essence you strongly feel that reenlistment bonuses, that type of inducement are much more effective and less expensive ways to keep and preserve critical manpower?

Mr. SINGER. Mr. Chairman, I think there is no question about that.

Chairman SIMPSON. Thank you very much. I appreciate your being here, Mr. Singer.

Mr. SINGER. Thank you, Mr. Chairman.

Chairman SIMPSON. Thank you.

[The prepared statement of Neil M. Singer, Principal Analyst, National Security and International Affairs Division, Congressional Budget Office, follows:]

PREPARED STATEMENT OF NEIL M. SINGER, PRINCIPAL ANALYST, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, CONGRESSIONAL BUDGET OFFICE

Mr. Chairman, it is my pleasure to appear before your Committee today to present the results of the Congressional Budget Office's analysis of one of the provisions of S. 2747, the proposed Veterans' Education and Employment Amendments of 1982. Accompanying me are Mr. Dan Huck and Mr. Edward Shephard.

This bill proposes several adjustments and improvements in veterans' employment, vocational rehabilitation, and education programs. My comments will be limited to Sec. 104(a) of the bill, which would modify the current December 31, 1989 termination date for GI Bill educational benefits by permitting members separating from active duty after that date to use benefits over an eight-year period, provided that use of the benefits begins within two years after separation.

As you know, this Committee requested that the CBO undertake a study of the costs and manpower effects of various proposals to modify or repeal the GI Bill's termination date. In brief, our analysis indicates that the provisions of Sec. 104(a) would result in a very modest reduction in separations among career servicemembers who might otherwise leave to use their GI Bill benefits before the 1989 termination date. Sec. 104(a) would also generate some small, near-term budgetary savings in the form of lower GI Bill expenditures. The long-term costs of the bill would be large, however, and an equivalent improvement in near-term retention could be obtained much more cheaply by using other incentives, such as pay raises or reenlistment bonuses.

CURRENT LAW AND THE GOALS OF SEC. 104(a) ON MANPOWER RETENTION

With the passage of P.L. 94-502, the Veterans' Education and Employment Assistance Act of 1976, the Congress terminated the Vietnam-era GI Bill for new recruits entering active duty on or after January 1, 1977. The Act also established December 31, 1989, as the closing date for all training under the Vietnam-era GI Bill, following precedents regarding termination of benefits set by the World War II and Korean War GI Bills. At present, all servicemembers with six years or more of service--about 40 percent of today's force--have earned benefits under the Vietnam-era GI Bill.

The Administration's support for modifying the GI Bill termination date stems from a concern that many current career servicemembers might leave service prematurely to take advantage of the benefits before the 1989 expiration date. This prospect could undermine efforts to overcome persistent shortages of senior enlisted personnel, which became a problem largely because of the high separation rates of career members between 1976 and 1980. The large military pay raises of 1981-1982, coupled with the unfavorable state of the civilian economy, have raised reenlistment rates in all the services to record high peacetime levels.

Nonetheless, shortages in selected but critical categories will probably persist for the next several years, especially in the Navy and Air Force, in which the requirements for these skilled career personnel are likely to grow.

The Congress and the Defense Department have already addressed these projected shortages with various other retention incentives; these include pay raises targeted to senior ranks, expanded reenlistment bonuses, and enhanced specialty pays for aviators, sailors, and submariners. Modification of the GI Bill termination date can be viewed as a similar incentive to encourage the retention of senior servicemembers. Like the effects of pay raises, but unlike those of bonuses and specialty pays, the effects of modifying the 1989 termination date unfortunately would not be confined to the skill areas and specialties in which career manpower shortages currently exist or are projected to develop.

PROJECTED EFFECTS OF SEC. 104(a)

The Congressional Budget Office's analysis indicates that extension of the 1989 termination date would have only a small impact on projected separations among enlisted members eligible for GI Bill benefits. The CBO estimates that, between now and the end of 1987, modification of the termination date as prescribed in Sec. 104(a) would result in the retention of approximately 1,300 members--in all skills and services--who would otherwise leave active duty. This change would represent a reduction of only about one-half of one percent in the 220,000 projected separations by enlisted members eligible for GI Bill benefits, most of whom will leave service for reasons unrelated to their use of the GI Bill. In other words, by 1987, the extension of benefits in Sec. 104(a) would increase by only one-tenth of one percent the projected career enlisted force of more than 1 million. If benefit levels were adjusted automatically (that is, indexed) to keep pace with inflation, the reduction in separations would still be only 2,700 members, or 1.2 percent. Moreover, Sec. 104(a) would actually increase post-1987 separations, as I will discuss shortly.

Method of the CBO Analysis

The CBO analysis rests on the premise that career servicemembers' retention depends on their valuations of anticipated future benefits. In evaluating future benefits, the methodology adjusts for the lower value that people place on deferred income in comparison to current income--that is, future benefits are discounted. This approach, which seems intuitively sensible, has been validated empirically, and it is now used by the Defense Department, the CBO, and other analysts in virtually all evaluations of military manpower policy. Since the current law termination date eliminates the anticipated future benefits of post-1989 use of the GI Bill, it should decrease the likelihood that members will reenlist. Thus, the termination date should encourage at least some members to separate from service prematurely--that is, earlier than they would have chosen if the termination date had not been in effect--in order to use their earned benefits.

Several reasons explain why the CBO estimates that only a few such premature separations will occur. One is the powerful influence that potential retirement benefits exert on career retention. The expected gains from remaining on active duty for at least 20 years and thus becoming eligible for retirement pay far outweigh the value of educational benefits. A second factor minimizing the impact of the termination date is that, historically, older servicemembers have used educational benefits at lower rates than have those who leave after just one or two terms (three to six years) of service. Thus, the loss that senior members anticipate from forfeiting their earned benefits is diminished by the lower probability of those benefits' being used.

The influence of time also plays an important role in estimating the effects of the termination date. Sec. 104(a) would permit use of benefits as late as the year 2014 for members who entered service in 1976. The discounted value today of these deferred benefits is far less than their projected nominal value. CBO's analysis used conservative discount rates to limit the weight of this factor. We also tried to mitigate the effects of time by analyzing a case in which GI Bill benefits would be indexed to inflation. Although benefits are not now indexed, in the past they generally have been raised on an ad hoc basis to preserve their real value.

The CBO estimates that an indexed program would produce about 2,700 fewer pre-1988 separations, but at much higher cost than an unindexed extension.

Cost Savings Projections

Modification of the termination date, with benefits either indexed or not, will lead to a deferral of the use of GI Bill benefits by members who are dissuaded from separating prematurely. The short-run savings caused by this deferral, however, are greatly outweighed by the long-term use of GI Bill benefits by servicemembers whose eligibility otherwise would end in 1989. The marginal reduction in enlisted separations that would result from extending the termination date would yield cumulative savings of approximately $14 million in GI Bill benefit outlays between fiscal years 1983 and 1989. These short-run savings would vary from $300,000 in fiscal year 1983 to a maximum of nearly $3 million in fiscal year 1988. The CBO estimates, however, that the proposed extension would increase cumulative post-1989 outlays by approximately $725 million. If benefits were indexed to the inflation rate, cumulative fiscal year 1983-1989 savings would be $38 million, but post-1989 total outlays would increase by $2.8 billion. (All these cost estimates are in nominal dollars, using CBO's baseline inflation projections.)

COST COMPARISON WITH OTHER RETENTION INCENTIVES

Extension of the termination date for GI Bill benefits seems a quite expensive way to improve career enlisted manning. The CBO estimates that the cost per additional servicemember would be approximately $550,000 for an unindexed program or $1 million if benefits were indexed. These costs are so high because most of the potential users of post-1989 benefits would remain in service even if their eligibility were terminated. Annual across-the-board pay raises of one-tenth of one percent between 1983 and 1987 could produce the same 1,300-member reduction in premature separations as the Sec. 104(a) extension, but at a cost of only $190 million in contrast to $725 million. Selective reenlistment bonuses would be even more efficient, at a cost of $40 to $120 million (depending on members' length of service) to reduce premature separations by the same 1,300.

Bonuses would also be more efficient, because they would retain the skilled personnel whom the services need most. In contrast, extending the availability of GI Bill benefits beyond 1989 would be of equal value to all servicemembers. Therefore, many of the estimated 1,300 members who would remain in service rather than separate prematurely would probably be in skills in which the services do not project manning shortages. In terms of ameliorating the services' manpower problems in critical skills, therefore, the Sec. 104(a) extension would be even less efficient than shown by our calculations.

A further difficulty with the proposed extension is that it would only defer, not eliminate, the incentive for members to separate from service to use their GI Bill benefits. The CBO estimates that, under Sec. 104(a), the services would experience 470 more separations between 1988 and 1990 than would occur under current law. These additional more distant separations would partially offset the near-term (pre-1987) manpower gains that Sec. 104(a) would achieve.

Despite the high relative cost of reducing premature separations by modifying the GI Bill termination date, considerations of equity might still make the extension desirable. Survey data and anecdotal information suggest that senior servicemembers are very sensitive to the appearance of inequity posed by the 1989 date. Nearly all persons who have served in the military during the last four decades have been eligible for GI Bill benefits. Yet today's career members, who have served longer than most, will lose their benefits because of a change in law made during their term of service. This issue of equity may counterbalance the high long-term costs of Sec. 104(a).

The CBO's analysis of this fairness issue suggests other ways in which the separation incentive of the 1989 termination date could be alleviated. One approach would be to offer those active-duty members who have earned GI Bill benefits the right to receive in cash part of the value of their entitlement (say, 25 percent) in return for at least one additional reenlistment and forfeiture of rights to future training. Such a "cash out" would be less selective and therefore more costly than current reenlistment bonuses. But it would confer offsetting savings in the form of bonus cost reductions, would improve career manning in the short run, and would eliminate the long-run incentive for members to separate to use their GI Bill benefits.

A more complex alternative would be to offer senior members the option to transfer their GI Bill (chapter 34) entitlement to the Veterans' Educational Assistance Program (chapter 32) now in effect. Although the basic benefits under the chapter 32 program are substantially less valuable to members than GI Bill benefits, the Defense Department is authorized to provide supplemental benefits, called "kickers," to encourage recruitment and retention. At present, the department uses kickers only for recruiting, but there is no bar to extending these benefits to senior personnel in shortage skills at the department's discretion. An advantage to this approach is that "kickers" could be targeted toward critical personnel and thus could be more efficient than any across-the-board incentives such as those provided under Sec. 104(a). A disadvantage, however, is that the eventual incentive to separate in order to use educational benefits would persist.

Mr. Chairman, this concludes my prepared statement. Mr. Huck, Mr. Shephard, and I will be pleased to answer any questions you may have.

Chairman SIMPSON. Now, the veterans' group representatives, please. Phil Mayo, special assistant to the director, national legislative service, Veterans of Foreign Wars of the United States, accompanied by Kim Graham; Paul Egan, deputy director of national legislative commission, accompanied by James Bourie, director of economics in the American Legion; and Ronald Drach, director of employment, the DAV, in Washington, D.C., accompanied by Steve Edmiston.

Nice to see you.

Mr. DRACH. Good morning, Mr. Chairman.

Chairman SIMPSON. If you will simply proceed in that order as listed on the agenda. Phil then Paul then Ronald Drach. Please.

TESTIMONY OF A PANEL OF REPRESENTATIVES OF VETERANS' ORGANIZATIONS CONSISTING OF: PHILIP R. MAYO, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES, ACCOMPANIED BY KIM GRAHAM; PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, ACCOMPANIED BY JAMES G. BOURIE, DIRECTOR, NATIONAL ECONOMICS COMMISSION, THE AMERICAN LEGION; AND RONALD W. DRACH, NATIONAL EMPLOYMENT DIRECTOR, DISABLED AMERICAN VETERANS, ACCOMPANIED BY STEVE EDMISTON, ADMINISTRATIVE ASSISTANT

Mr. MAYO. Thank you, Mr. Chairman. I would just like to summarize the text of my statement if I may.

Chairman SIMPSON. Please.

Mr. MAYO. We support the provisions of S. 2747 with respect to several education and employment programs that are identified in it. We support the educational changes made in the bill but believe that the delimiting date should be removed altogether from it. We believe that the benefit payments under that bill need to be increased in order for the changes proposed in the bill to be effective, inasmuch as the real value of those payments has decreased in our view 40 to 50 percent since the last increase in them. And we believe that waiting an additional 5 to 15 years for current servicemembers to use those would only further diminish the ability of the GI bill as it stands to accomplish the desired end.

We also believe that enactment of this provision would further underscore the need to implement on a reasonable basis the provisions of Public Law 97-72 regarding the delimiting date extension and the business loan aspects of it.

With respect to the amendment to the bill, our cursory review of its provisions would lead us to support that as well.

And I now would like Mr. Graham to address the employment provisions of the bill and make several observations.

Chairman SIMPSON. Thank you.

Mr. GRAHAM. Thank you, Mr. Chairman. My first concern, or, I should say the VFW's concern, is with the language of section 209 which changes section 2025 of title 38. This is the new language which transfers the responsibility but not the actual office of veterans' reemployment rights. And it's directed within the bill itself.

We would suggest language which would include the present director and the Office of Veterans' Reemployment Rights be transferred over to the Assistant Secretary. Within Mr. Plowden's testimony he makes mention of the fact that the Secretary of Labor would like to have a study conducted concerning this transfer. I find it somewhat ironic, since the Department of Labor has already conducted a study concerning the transfer of OVRR. And that study has been 75-percent completed.

As we all know, any time you conduct a study it depends on what you are out to search for and whatever it is that you want to find. We don't really feel that there is a need to conduct a study concerning this transfer. The main cost involved with the transfer will be the training or the cross-training of the personnel for VES and OVRR itself. That would more than likely run into the hundreds of thousands of dollars for the first year, but then later on it would die out.

When the VFW supported the passage of Public Law 96-466, we did so with the intent that all veterans' programs be put under the Assistant Secretary. We are not for the transfer of OVRR for the sake of good looks. We are very much concerned with this transfer issue.

Over the past few months it seemed to us that the Department of Labor has been dragging its feet concerning this issue.

Another portion that we would like to offer some balanced comments in regard to the Department of Labor has to do with the Secretary's Committee on Veterans' Affairs, which has yet to meet. In June of this year the Secretary had a meeting at which it was stated that the Secretary's Committee on Veterans' Affairs was going to meet by the end of that particular month. Now we are told today that the first meeting is scheduled for the first of September.

We submit, Mr. Chairman, that the Department of Labor is somewhat afraid to have the veterans' organizations meet with him to learn of our concerns with regard to the running of various employment programs. We feel that either the Secretary of Labor has little care about veterans' programs or that, in effect, the new Assistant Secretary maybe does not want to hear of our concerns to the Secretary of Labor himself.

My last comment, as I said, I will offer it as balance to the ASVE's remarks with regard to the filling of vacancies. Recently the $1.1 million supplemental passed. And we have very much of a concern with regard to the filling of the DASVE position. You have heard this morning that the Department of Labor is going through a reorganization plan. The DASVE position is an extremely important position within that organization chart.

We certainly hope that the time that has lapsed will not continue to lapse with regard to filling that position.

That's all my comments.

Chairman SIMPSON. Thank you very much.

Paul Egan, please.

Mr. EGAN. Mr. Chairman, I have with me today, Jim Bourie, he is the director of our economics division. I want to point out that between the two of us we have testified on this subject, the subject of employment training, eight times since just this last November. I am going to let Jim summarize our remarks concerning employment training. But before doing that I would like to make a few comments about title I of S. 2747, as well as amendment No. 1984.

First of all, just one thing about title I, concerning the provision which would allow the retention of Vietnam-era careerists. We can agree with that and we support it. However, we would like to point out that we don't regard that as a panacea and that it only addresses part of the problem of retention in the military services.

We believe that it shouldn't be seen as a substitute for a peacetime GI bill. And we have some concerns that some inequities might be established if this benefit were available to Vietnam-era careerists but not available to subsequent careerists. The problems of retention are going to be long term, at least for the foreseeable future. And we have some reservations about that.

I might add that if this doesn't work as an adequate incentive to retain people, it probably won't cost very much unless these careerists are able to allow their dependents to use those benefits.

So, with that reservation we support the provision.

In amendment No. 1984 the provision which would clarify the eligibility criteria for the targeted extension of the delimiting date, we are absolutely in favor of. And in our view the Veterans' Administration has failed to adequately address the intention of Congress in the implementation of that program.

Therefore, we also fully support the additional 1-year extension.

I think I'll let Jim go ahead at this point.

Chairman SIMPSON. Thank you.

Mr. BOURIE. Thank you, Mr. Chairman. I'll keep my issues on the employment training portion of S. 2747.

We wish to first voice our support for the veterans' employment training portion of S. 2747 and to applaud the leadership of this committee and that of the House Veterans' Affairs Committee and their respective staffs for taking an aggressive role in veterans' employment training matters.

Recent developments in both the House and Senate as regard the veteran employment training program and CETA's replacement have given us cause to believe that this country is in deep concern over the unusual high unemployment rate for Vietnam-era veterans.

We believe that a national veteran employment training program administered by the Office of Assistant Secretary of Veterans' Employment, coupled with an aggressive veteran program in the States will have a decided impact on veteran unemployment rates. However, it must also be emphasized that the Office of Assistant Secretary must also have the necessary legislative and administrative tools to provide services.

That office must directly control all veteran programs within the Department of Labor. This is especially true of the Office of Veterans' Reemployment Rights to include their staffs and DVOP, which is at a level of confusion as States are forced to absorb both funding and staffing from their job service budgets.

Moreover, the Office of Assistant Secretary must monitor the replacement requirements of DVOP specialists to insure State compliance. It is also essential that the program be line itemed in the Department of Labor budget and clearly identified. The Office of

Assistant Secretary must further be given the latitude to place specialists where the greatest needs are.

Mr. Chairman, we have stated time and again that section 2012 of title 38 dealing with Federal contractors is almost totally ignored by both contractors and the Office of Federal Contract Compliance. We, therefore, would like to see a more involved approach on the part of the Office of Assistant Secretary into contract compliance policy decisionmaking. This involvement must carry over to the State and assistant State directors for veterans' employment to monitor Federal contracts and handle complaints.

We believe also, Mr. Chairman, that the Veterans' Employment Service must attract the best possible candidates that occupy field positions. But it concerns us that over 30 percent of the States are only authorized a State director for veterans' employment. Thus, likely candidates must come from other than the Veterans' Employment Service. This, in our opinion, has a demoralizing effect on other VES qualified candidates.

A residency requirement is a good requisite, but it should not be the only requisite and couched in such a way as to be an absolute barrier to career advancement.

In conclusion, Mr. Chairman, chapters 41 through 43 of title 38 do not need wholesale revision but only fine tuning to provide the Office of Assistant Secretary with the needed authority to be more active and aggressive in veterans' employment training matters.

We again applaud the leadership shown by this committee in addressing these issues. Thank you, Mr. Chairman.

Chairman SIMPSON. Thank you very much, Mr. Bourie.

Ron Drach, please.

Mr. DRACH. Thank you, Mr. Chairman. In a moment I would like to discuss the employment provisions. But in the interim I would like to introduce Steve Edmiston who will discuss briefly the education requirements of the provisions of the bill.

Chairman SIMPSON. Thank you.

Mr. EDMISTON. Thank you. Mr. Chairman, the DAV appreciates the opportunity to address the employment provisions of S. 2747. The DAV has no official position on those provisions that would remove veteran representatives from college campuses, repeal the 50-percent rule, and modify the 1989 termination date for chapter 34 educational benefits. However, the DAV would not object to DOD picking up the tab on chapter 34 educational benefits after 1989.

We would like to express our concern with respect to changing the VA's reporting requirements on the loan defaults. We believe that in order to maintain program integrity that they should be required to report school by school rather than a cumulative report to the Congress.

And, finally, the DAV does strongly support the amendment that would clarify the targeted delimiting date extension of the 10-year delimiting period for certain Vietnam-era veterans to utilize the VA on-the-job training and vocational training program that was originally established by Public Law 97-72.

Thank you, that concludes our remarks on the educational provisions of S. 2747.

Chairman SIMPSON. Thank you very much. Ron.

Mr. **Drach**. Thank you, Mr. Chairman. At the outset I would like to thank you on behalf of the DAV for conducting these hearings, especially those dealing with the employment aspects of the bill. We certainly appreciate the support that we have received from you on employment and training programs, especially your taking the lead in offering the amendment to S. 2036. And, of course, Senator Mitchell's cosponsoring that amendment that would provide for a setaside, if you will, in subsequent legislation dealing with employment and training programs.

We are also appreciative of S. 2747. I read that bill a couple times, Mr. Chairman, and I kept looking for something in there that I was hopeful would be in there. It's near and dear to the heart of the DAV and we have been seeking for about 8 years. And if it was an oversight we would be glad to work with you on it to try to get that little provision in there in the future. I will talk about that in a little bit more detail.

Chairman **Simpson**. Something we missed?

Mr. **Drach**. Maybe. I'm not sure. I will discuss that a little bit further in a minute if I may.

I would like to comment before I get into that. Some of the comments that Mr. Plowden made earlier, one, dealing with the residency requirement which is somewhat modified by your bill and is also modified in H.R. 6240 over on the House side.

Up until 2 weeks ago Monday, or a week ago Monday, the DAV's position was to oppose any change in that residency requirement. At our national convention conducted last week the entire national convention passed unanimously several resolutions, one of which does call for a change in the residency requirement. So we have now changed that position and we are in support of a modification to the residency requirement for the positions of State directors for veterans' employment.

This does not mean that we are asking that the residency requirement be struck altogether, but would allow for some flexibility in the appointment in the upward mobility of assistant State directors who have been on the job for a certain period of time. We are hopeful that that will be retained in the bill and ultimately passed.

Also, on the issue of transferring the Office of Veterans' Reemployment Rights over to the Assistant Secretary, apparently there may be some confusion as to the DAV's position on this, as I was informed yesterday that a quote was taken from a hearing back in February and given to the Secretary of Labor. And that quote was from a statement that I made before Mr. Edgar's subcommittee. And I believe that quote was taken out of context.

I want to go on record here with you all saying that the DAV does support the transfer of the Office of Veterans' Reemployment Rights over to the Assistant Secretary's Office. But as Mr. Graham pointed out, it is not just a cosmetic change; we want the entire staff and budget to be transferred over with that.

Our position has been made clear on numerous occasions in letters to the subcommittee over on the House, to the Secretary of Labor, to the transition team back as early as December 1980. And I think there is no question as to what our position is. And I regret that my comments were taken out of context.

Chairman SIMPSON. Well, we can only sympathize with that.

Mr. DRACH. On the subject of issuing regulations, I think that one of the problems that we have had with the Veterans' Employment Service over the years has been the lack of regulatory authority and responsibility. And until such time as the Assistant Secretary has that responsibility to issue regulations and to follow up on those regulations we are afraid that some of those provisions will not really be effective.

If I may now, I would like to ask that my entire statement be submitted for the record because I would like to restrict the rest of my time to——

Chairman SIMPSON. It's already restricted. It's gone.

Mr. DRACH. My time's up?

Chairman SIMPSON. Yes. Five minutes I had. And I would give you a minute to summarize, but I do have—It is 11 o'clock but I wanted each of you to have the equal time and that has expired. So if you have a minute to summarize, shoot.

Mr. DRACH. I just want to comment very quickly on the definitional change from 30 percent down to 10 percent and offer a compromise. If we expand this definition to include 10's and 20's we would add 1.2 million disabled veterans. However, if we put an age 55 cap on that we will knock out 1.3 million disabled veterans, thereby including all service-connected disabled up to age 55 with a net reduction of 82,938 eligibles.

Thank you. I hope you would consider that.

Chairman SIMPSON. If you will certainly contact the staff and we will review that and see where we are on the costs and numbers. You bet. We will certainly consider that.

Just a couple of questions. And indeed, what you were saying, Mr. Graham, we too wish to see that meeting of the Committee on Veterans' Affairs take place. And I assure you that we will hope to see that and work, both of us, to see that that does take place with staff of House and Senate majority and minority. And we will see that done. We will join you in that.

Given the minor change in—this to the VFW representatives, Mr. Mayo and Mr. Graham. Given the minor change in the proposed bill's residency requirement for the VES State directors, does the VFW still have opposition to loosening that in order to provide some kind of career mobility for assistant State directors? You had a resolution at your national convention a year ago. Or what is your position on that now? Just any change or loosening or what?

Mr. GRAHAM. As you know, Mr. Chairman, we are mandated by our resolutions. And our resolution specifically states it opposes any changes. There has been hours and hours of discussion over the modification whether that constituted a change or not. We have decided to put the issue to rest at the moment. That is, we will stand by our resolution of this past year.

However, I can assure you that there is going to be considerable discussion concerning the residency requirement resolution at our upcoming convention in August. We—I shouldn't say we—I, personally, feel that there is room for some modification to the residency requirements. But as the organization states right now we have to oppose any change to that.

Senator **Mitchell**. I have to go to another hearing, Mr. Chairman.

Chairman **Simpson**. Thank you very much for your attendance. I appreciate it.

One other question to the VFW. Your national convention resolution 669, just briefly comment. Would you say that it was to "preserve veterans' preference in employment block grants to States"? Can you just briefly explain that just for the benefit of the committee?

Mr. **Graham**. I am at somewhat of a disadvantage, Mr. Chairman. I am going to have to speed read the thing to——

Chairman **Simpson**. Well, you can furnish that for the record.

Mr. **Graham**. OK. Fine, thank you.

Chairman **Simpson**. If you will.

[Subsequently, the Veterans of Foreign Wars submitted the following information:]

It was anticipated by the delegates to our last National Convention that the increase in state administered grant programs and the corresponding decrease in federally administered grant programs, particularly with the proposed demise of CETA, might cause less emphasis to be placed on preference and special consideration for veterans therein. It was, therefore, the desire of the delegates to insure veterans be granted special consideration, in employment related matters, in all block grant programs. Additionally, the delegates would desire that veterans be granted preference in any new national employment initiative that may ultimately be enacted.

Chairman **Simpson**. Just a couple of questions now for Mr. Egan and Mr. Bourie. If the ASVE is made responsible for a nationwide employment training program, would responsibility for the enforcement of the veterans' reemployment rights somewhat overtax the resources of that office? Do you have any comment on that?

Mr. **Egan**. Well, first of all we would anticipate that the governing of national programs would be in large part the responsibility of the Veterans' Employment Service. You can't assume the Assistant Secretary will personally or through the personnel in his own labor office govern all of these programs. There is a pretty extensive field service and those people can, if they become more active, make sure that the programs in the field are operating properly.

Chairman **Simpson**. Let me ask one other question. Before the subcommittee in the House of the markup of H.R. 6440 there was testimony that only one vet rep remains on a campus nationwide. If that vet rep program has dwindled that drastically, why do you still feel some opposition to the repeal of it?

Mr. **Egan**. We still believe that there are a lot of veteran students. There may only be one vet rep on campus but that doesn't necessarily mean that that is the way it should be. We believe that the same reasons for which the vet rep program was begun still apply. And those are that individual volunteers on the campus itself are not as well equipped to advise students that are veterans of their entitlements are under chapter 34 as VA employees.

It's basically a principled position.

Chairman **Simpson**. And just a final question or two for the DAV. How would you propose that the committee proceed to assure funding for the DVOP program?

Mr. **Drach**. I think the best approach to this, Mr. Chairman, is to have in the Department of Labor appropriations a line item for

DVOP. That would be given directly to the Assistant Secretary for Veterans' Employment to administer and be responsible for the expenditures of those moneys.

We also believe that those moneys should be over and above the normal grants to States, if you will, to run the employment security system. So that the intent of Congress, which we believe is pretty explicit, that these DVOP personnel be over and above the other personnel within the employment security system.

Chairman SIMPSON. In the experience of your membership, your members, do veteran outreach programs administered by the VA and the Department of Labor work so well together that it may be excessive in this proposed legislation to call for any greater cooperation between them?

Mr. DRACH. Not from our experience, Mr. Chairman. I think just the opposite is true. As a matter of fact, I just had a conversation with Art Blank, the director of the VA's Outreach program, yesterday based on a letter that we sent to him regarding the outstationing problem of DVOP. And some of the comments that we received over the years—and I think Mr. Bourie has shared this and so has Kim Graham—that a lot of the Vet Centers, for various reasons, won't accept DVOP personnel.

And in discussing it briefly with Dr. Blank yesterday some common problems were somewhat identified, although not resolved. And we hope to meet with Dr. Blank in the very near future.

Chairman SIMPSON. That issue of outreach has been very interesting to me in my 3½ years with the committee. There are so many VA and veterans' groups, groups within communities, outreach, outreach and yet we continually find that they are not being reached.

That's an interesting thing to me. I one day will have it all in my head just why that is.

I want to thank you all for being here and always appreciate the views of the veterans' organizations. This has been very helpful for me. We will proceed using this material toward preparation for markup. And I thank you very much for your attendance.

I thank you very much for your testimony and your patience.

[The prepared statements of Philip R. Mayo, special assistant, National Legislative Service, Veterans of Foreign Wars; Paul S. Egan, deputy director, National Legislative Commission, The American Legion and James G. Bourie, director, National Economics Commission, and an August 4, 1982, letter from The American Legion on its suggestions on how the disabled veterans outreach program might be shielded from future budget reductions if DVOP were funded out of general revenues; and a prepared statement of Ronald W. Drach, national employment director, Disabled American Veterans, and the DAV's response to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, follow:]

VETERANS OF FOREIGN WARS OF THE UNITED STATES

OFFICE OF THE DIRECTOR

PREPARED STATEMENT OF

PHILIP R. MAYO, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO

LEGISLATION AMENDING THE EDUCATION AND EMPLOYMENT PROGRAMS
SET FORTH IN TITLE 38, UNITED STATES CODE

WASHINGTON, D. C. JULY 28, 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to present the views of the Veterans of Foreign Wars of the United States with respect to S-2747, introduced by you and co-sponsored by the Ranking Minority Member of the Committee, the Honorable Alan Cranston, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans Administration and the veterans employment programs administered by the Department of Labor.

Initially, Mr. Chairman, we commend the wisdom of the Committee in acceding to most of the Veterans' Budget as developed by the House Budget and Veterans Affairs Committees, as recently passed in S. Con. Res. 92. As you know, the VFW strongly supported the House Budget inasmuch as it contained funds to more adequately maintain the integrity of veterans programs, compensation and the VA medical care system.

With respect to the legislative matters at hand, Sections 101, 102, and 103 of S-2747 are technical amendments providing for an account through which the Veterans Education Assistance Program (VEAP) may be administered by the Veterans Administration; prohibiting subsistence payments to veterans while incarcerated for a felony conviction

★ WASHINGTON OFFICE ★
VFW MEMORIAL BUILDING ● 200 MARYLAND AVENUE, N.E. ● WASHINGTON, D. C. 20002 - 5799 ● AREA CODE 202-543-2239

under the vocational rehabilitation program; and providing that the Administrator may assign veterans benefit counselors to educational institutions. Mr. Chairman, we have no objection to these provisions.

Section 104 of the bill provides for the extension of the 1989 delimiting date imposed upon the Vietnam-Era G.I. Bill for those currently serving on active duty in the Armed Forces for up to 8 years subsequent to their last discharge or retirement, with funding after December 31, 1989 being provided by the Department of Defense. As you know, the VFW has supported the extension of the delimiting date in a number of instances, including those which would assist educationally disadvantaged veterans and allow service disabled veterans who were delayed, due to medical reasons, from pursuing programs of education. Likewise, the VFW supports this extension of the delimiting date inasmuch as the voting delegates to our most recent National Convention adopted Resolution No. 782, entitled "Vietnam-Era G.I. Bill Educational Benefits," a copy of which is appended hereto. However, Mr. Chairman, this resolution calls for the removal of the delimiting date from the G.I. Bill for Vietnam veterans altogether.

We would, though, make several observations in this connection. While we agree with the underlying premise of this initiative--namely, to enhance the retention prospects of expensive-to-train midcareer personnel who might leave the active service in order to make use of their educational benefits prior to the 1989 delimiting date, or lose their eligibility for such--and while we also agree with premises underlying those extensions mentioned previously, we question the adequacy of the benefits those midcareer personnel would derive by waiting 5 to 15 years to exercise their eligibility under a program; the value of which has eroded by 40 to 50 percent since the last "cost-of-living" increase therein.

In addition, since the Congress has wisely provided additional benefit eligibility for the groups of veterans mentioned above and is now considering improvements to assist career military Vietnam veterans, we suggest that it would be appropriate as well to consider assisting those veterans who are currently enrolled in college by increasing benefit levels under the G.I. Bill; by pressing the Administration to more liberally interpret and administer the on-the-job training programs authorized in Public Law 97-72; and by providing funding for the business loan/guarantee program authorized by that same law. Mr. Chairman, in providing such additional assistance to certain segments of the veterans population, we believe the "average" veteran, having completed his efforts under the educational or rehabilitation programs, is being overlooked for assistance--assistance that would make his entrepreneural or career development ambitions more realizable.

Section 105 of the bill would eliminate the "50-percent rule" requiring reports from institutions and/or veterans on the success rate of those taught in vocational courses in gaining employment connected with their studies. Substitute language would require that the course provide specialized training within a specific vocational field and would eliminate reporting as presently required. We support this provision inasmuch as the current language in Title 38 is unequal in its treatment of vocational courses as compared to undergraduate and graduate courses. For example, an English major may not obtain employment in the field of English, and this does not impact adversely either on the institution or the veteran; the reverse may be true regarding vocational courses under the provisions of current law.

Mr. Chairman, Section 106 of the bill contains provisions which would eliminate the educational assistance allowance, but would allow payments covering the cost of books, supplies and equipment for veterans while they are incarcerated for a felony conviction; and would require the Administrator to submit to Congress annually a report with respect to the default experience on certain loans to veterans. We have no objection to their enactment.

Sections 201, 202, 203, 206, 208 and 209 of the bill deal with matters relative to veterans employment programs administered by the Department of Labor. The provisions of these sections of the bill are generally parallel to those in a bill now advancing in the Committee on Veterans' Affairs of the House. While we support efforts to strengthen employment programs to assist veterans, we are mandated to oppose any change to the current residency requirements set forth in Title 38. The provisions also encompass the intent of a number of resolutions adopted at our most recent National Convention held in Philadelphia, Pennsylvania, and those resolutions are attached hereto for your review. They are:

Resolution No. 642 -- "OPPOSE ANY CHANGES TO THE RESIDENCY REQUIREMENT FOR VES STATE DIRECTORS"

Resolution No. 651 -- "MAINTAIN THE 52 VES-VOL SECRETARIAL POSITIONS"

Resolution No. 669 -- "PRESERVE VETERANS PREFERENCE IN EMPLOYMENT BLOCK GRANTS TO STATES"

Resolution No. 710 -- "FUNDING FOR VES"

Section 204 and 205 of the bill contain provisions clarifying funding for and strengthening the Administration of the Disabled Veterans Outreach Program and we support the enactment of these improvements for this successful and effective program.

Section 301 of the bill provides for a reduction in the time required for a veteran to make a request for a waiver for relief from a recovery of claims by the United States from 2 years to 180 days, with certain exceptions prescribed by the Administrator. We have no objection to the passage thereof.

Mr. Chairman, this concludes my statement, and I would be happy to respond to any questions you may have at this time.

Resolution No. 782

VIETNAM-ERA G.I. BILL EDUCATIONAL BENEFITS

WHEREAS, our great organization recognized that each generation of veterans has needs different from those of earlier eras; and

WHEREAS, the Vietnam war took place during a period of vast changes stemming in part from the complexities of new technology that have created a highly industrial, urbanized society; and

WHEREAS, since the last increase in educational benefits in 1977, we have witnessed a double-digit inflation rate where the costs of education have exceeded the rate of inflation; and

WHEREAS, the returns from such programs have far exceeded the Federal investment therein; and

WHEREAS, many Vietnam veterans, for a number of reasons, have not had the opportunity to avail themselves of these benefits; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States that we seek the passage of legislation to amend the Vietnam-Era Education and Training Act which would (1) extend entitlement thereunder from 45 to 48 months; (2) secure an increase in benefit levels at least comparable to the increase in the Consumer Price Index; and (3) remove the delimiting date on eligibility for such benefits.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 642

OPPOSE ANY CHANGES TO THE RESIDENCY REQUIREMENTS FOR VES STATE DIRECTORS

WHEREAS, the Congress of the United States has enacted legislation providing for a Veterans Employment Service within the Department of Labor; and

WHEREAS, the act provides that the State Director of the Veterans Employment Service and the Assistant State Director of the Veterans Employment Service shall be an eligible veteran, and at the time of appointment, shall be a bonafide resident of the state for at least two years; and

WHEREAS, the assigning of a local state resident to the position of State Director and Assistant State Director is advantageous to the government and veterans, as the individual is knowledgeable of state programs as well as acquainted with state and local officials; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we go on record petitioning the Congress of the United States to oppose any changes to residency requirements for appointment of State Directors and Assistant State Directors of the Veterans Employment Service.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 651

MAINTAIN THE 52 VES - DOL SECRETARIAL POSITIONS

WHEREAS, the Congress has enacted legislation for an effective Veterans Employment Service program within the Department of Labor; and

WHEREAS, Chapter 41, Title 38, U.S. Code provides for staffing of the Veterans Employment Service necessary to carry out the mandates of Congress; and

WHEREAS, recently there was a move within the Department of Labor to eliminate the 52 field secretarial positions (one for each State); after debate the Congress provided sufficient funds to continue the secretarial positions; and

WHEREAS, an attempt to eliminate the 52 secretarial positions by the Employment and Training Administration of the Department of Labor is again being made; and

WHEREAS, the State Directors of the Veterans Employment Service will not be able to carry out their responsibilities as provided by law without secretarial help; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that to prevent this secretarial staffing problem from re-occuring, that the wording of the statutory authority for the secretarial positions be amended under Section 2003, Chapter 41, Title 38, U.S. Code, to clearly indicate that the intent of Section 505 (amending Sect. 2003) is to mandate Federal Civil Service secretaries at the State Director level within the Veterans Employment Service.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 651

Resolution No. 669

PRESERVE VETERANS PREFERENCE IN EMPLOYMENT RELATED BLOCK GRANTS TO STATES

WHEREAS, the President of the United States, in his message to Congress outlining his program for economic recovery, submitted the White House report on budget reform and proposed tax reductions; and

WHEREAS, the President suggested some 550 categorical grants should be consolidated into two block grant programs, one for health and social services and the other for education; and

WHEREAS, providing block grants to states and local agencies of government will result in the elimination of some 3,300 federal employees who presently administer the grant programs; and

WHEREAS, block grant funding to state and local governments will enable the states to plan and coordinate their own programs and establish their own priorities; and

WHEREAS, presently many federal funded programs provide special consideration and priorities for the nation's veterans; and

WHEREAS, providing block grants to states without congressional or other federal administrative requirements that veterans continue to receive special consideration and priority for services will eliminate many veterans from receiving services; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we go on record as petitioning the Administration and the Congress of the United States to provide that eligible veterans shall receive preference and special consideration in all employment and training related block grant programs funded by the federal government.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

Resolution No. 669

Resolution No. 710

FUNDING FOR VES

WHEREAS, the Veterans of Foreign Wars has traditionally supported the provisions of Title 38, United States Code (USC) mandating priority and preferential services in all State Employment Service manpower activities for veterans, particularly disabled veterans; and

WHEREAS, the Vietnam Era Veterans Readjustment Acts of 1972 and 1974 updated these benefits, with special emphasis directed toward disabled veterans and veterans of the Vietnam era, the spouse of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and to spouses of certain other eligible veterans (now termed "eligible persons"); and

WHEREAS, Public Law 93-508 of 1974 clarifies and strengthens Chapter 42 of Title 38, USC, insuring that affirmative action be taken by Federal Contractors to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era; and

WHEREAS, Title V of Public Law 96-466 further amends and strengthens Chapters 41, 42 and 43 of Title 38, USC, and appoints a full Assistant Secretary of Labor for Veterans' Employment to administer all DOL veteran-related programs and activities, including the functions of OVRR and those of OFCCP; and

WHEREAS, Title 38, USC, as amended, greatly expands the provision governing the operation of the Veterans Employment Service, adding legislatively-mandated full-time secretaries for the VES field staff, thereby demanding adequate manpower and funding therefor, as well as additional funds for the U.S. Department of Labor and the Employment Services throughout the country so as to enable the Veterans Employment Service to effectively carry out its added responsibilities; now, therefore

BE IT RESOLVED, by the 82nd National Convention of the Veterans of Foreign Wars of the United States, that we go on record as favoring adequate appropriations by the Congress to enable the Veterans Employment Service to provide preferential job counseling, training, and placement services for eligible veterans; and

BE IT FURTHER RESOLVED, that we petition the Congress of the United States to appropriate sufficient funds to these involved government agencies to insure that all of their legal responsibilities now imposed by Title 38, USC, as amended, are effectively discharged as intended by law.

Adopted by the 82nd National Convention of the Veterans of Foreign Wars of the United States held in Philadelphia, Pennsylvania, August 14-20, 1981.

PREPARED STATEMENT OF PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION, AND JAMES G. BOURIE, DIRECTOR, NATIONAL ECONOMICS COMMISSION, THE AMERICAN LEGION

Mr. Chairman and members of this Committee:

The American Legion thanks you for allowing us the time to present its views on veterans' employment training matters. Pertinent resolutions adopted by The American Legion are attached with the request that they be made part of the record.

Since last year we have watched veteran unemployment statistics climb to all-time levels. The Bureau of Labor Statistics currently reports that there were over 706,000 unemployed veterans under 40 years of age in June 1982. Especially hard hit are the younger Vietnam era veterans who suffer a disproportionately higher rate of unemployment than their non-veteran peers. We must also take into account the fact that there are also approximately 510,000 Vietnam era veterans who have simply dropped out of the system too discouraged to look for work. Further, due to a soft economy, there is a growing number of older veterans who are now seeking veteran services. The VA reports that vocational problems rank as the number one concern of veterans seen at Outreach Centers.

Mr. Chairman, veterans employment training matters are at a critical crossroads; their problems are real and well-documented and we look to this Committee and others to provide the necessary leadership in providing solutions to these issues.

With the enactment of P.L. 96-466, there was created the position of Assistant Secretary for Veterans Employment (ASVE) within the Department of Labor to direct and control all department veteran programs. That position is now occupied by Mr. William C. Plowden who faces many difficult challenges, and The American Legion stands ready to assist Mr. Plowden in any possible way. In our view, now is the time for the Veterans Employment Service to become more aggressive and responsive in the area of veterans' employment training issues. It must be given the authority and program control to stand alone. It can no longer have the success or failure of its programs dependent upon other department programs over which the Assistant Secretary for Veterans Employment has little control or input. The Veterans Employment Service can no longer simply monitor veteran programs; it must be actively engaged in the design, implementation and monitoring of veteran employment training programs.

Mr. Chairman, we have emphasized control and clear lines of administrative authority. Yet, veteran programs within the Department of Labor remain fragmented. The Office of Veterans Reemployment Rights remains under the Labor-Management Standards Administration. As such, the ASVE has no control of this program nor can he greatly influence policy decisions. The same holds true for the Office of Federal Contract Compliance which, in part, has responsibility for enforcement of section 2012 of title 38, USC. The American Legion strongly favors control by the Assistant Secretary for Veterans Employment over the Office of Veterans Re-Employment Rights with policy input to the Office of Federal Contract Compliance.

But perhaps the most glaring example is the Disabled Veterans Outreach Program (DVOP). As we read section 2003A of title 38, that program is to be administered by the Office of Assistant Secretary for Veterans Employment. However, it remains under the

Employment Training Administration. Indeed, the program itself, intended by Congress to provide outreach, counseling and job development, primarily for disabled and Vietnam era veterans, is in a state of high flux and confusion. The precise number of Disabled Veterans Outreach Program (DVOP) specialists is unknown; states have been threatened with law suits and the withholding of funds because they are not hiring DVOPs; DVOPs have been fired or laid off; we have known instances where DVOPs are not veterans and who service non-veteran clientele. Significantly, DVOPs are not getting out into the community to provide important veteran outreach efforts, but are relegated to the Employment Security (ES) office. To a degree, this is understandable as the State Employment Security Agency is the main, and only, source of broad-based veteran services at this time. As budget reductions take their toll on the ES staff and offices, which must respond to the demands of a labor market which has grown considerably over the last few years, veteran services will be reduced, with increased responsibility on DVOPs to perform non-veteran functions. In some states, the ES and Veteran Employment Service work in harmony; in others, there is acrimony.

Mr. Chairman, the program must be specifically line-itemed in the Labor budget and the ASVE must have total control over the funds. States must show they have the required number of DVOPs and that those personnel are indeed veterans, preferably disabled Vietnam era veterans, before any funds are released. Otherwise funds should not be released.

Moreover, the issue of funding is a major problem itself. In short, as long as the DVOP is funded from grants to states, it will not function smoothly or efficiently. Over the past several months, the ES has voiced its adamant objection to having the DVOP funded out of its budget. This has caused the ES, in some instances, to disregard federal law. Therefore, it would be most appropriate to fund the DVOP from general revenues in addition to whatever funding the ES receives. We believe also that the ASVE must be given the latitude in placing DVOP specialists in locations other than ES and VA offices. Congress intended that the program be one of employment training outreach, counseling, job development and referral. These objectives cannot be achieved if DVOP specialists are relegated to only ES offices serving walk-in veterans. That particular aspect is covered by Local Veterans Employment Representatives. Specialists must be placed where the greatest needs are, be they ES offices, military bases, community based veteran centers or the like. The decision on where to place specialists must ultimately be made by the Assistant Secretary for Veterans Employment in consultation with both the State Director and Regional Director of Veterans Employment (SDVE, RDVE).

We have stated Mr. Chairman, that this is a critical time for veterans employment training matters, and would now like to generally comment on Chapters 41, 42 and 43 of title 38, USC, relative to what we feel are persistent problems that pose impediments to a smooth VES operation. The first issue is the clerical support for SDVEs. Some SDVEs have been without clerical help for over 36 months. Amending language must be clear and precise identifying clerical support as federal employees and paid in accordance with title 5.

Our concern also encompasses the SDVEs. We would like to see the best possible candidates occupy these positions. State Directors should be attuned to their veteran community as well as having a rapport with the State Employment Security Agencies, and private industry leaders and unions. A residency requirement for VES field personnel is a needed requirement and works well in those states that are authorized an Assistant State Director for Veterans Employment. However, seventeen (17) states and two (2) territories are authorized only a SDVE. Thus, when a vacancy occurs, the VES must fill the position from outside the VES or find an exceptional Disabled Veterans Outreach Program or Local Veterans Employment Representative candidate who knows the veteran program from both the state and national perspective. This would preclude Assistant State Directors for Veterans Employment from other states from applying for vacant posts. VES field personnel should be given the opportunity to apply for other positions if they, as an absolute requisite, have had a set time as a VES field representative. Importantly, the ultimate decision remains with the Assistant Secretary for Veterans Employment, who should take into consideration such factors as regional differences, experience and such. If the VES is to remain a career attraction to VES personnel and potential VES personnel, they must be assured, as in any career position, that they do, indeed, have the opportunity for advancement. This troublesome question is addressed by both S. 2747 and H.R. 6440, and we prefer the language of S. 2747 but with a technical adjustment. Requirement "(1)" should be retained as regard an Assistant State Director for Veterans Employment with a two (2) year residency requirement, but requirement "(2)" as regard appointment should immediately follow "(1)" eliminating the word "or". The language "If... any other State." should be placed following "(2)" as a separate sentence, in similar fashion as H.R. 6440.

Mr. Chairman, we have said time and again that the VES must become more actively involved in veteran employment training matters. Surely one area that needs a close look is the requirement of section 2012 of title 38 that government contractors with $10,000 or more in federal contracts are to take affirmative action to employ and advance disabled veterans and veterans of the Vietnam era. It is our belief that this provision is woefully unenforced by the Office of Federal Contract Compliance. Government contractors ignore this provision with impunity. And, for the most part, veterans do not know of their rights under this section. It is logical, therefore, to have the VES field operation assume some responsibility for it. State/Assistant State Directors for Veterans Employment should not only monitor this provision, but also handle complaints.

The American Legion is also concerned over the veterans' participation in the replacement of CETA. The problems of veterans in CETA are well documented and need not be elaborated. In short, it has been an absolute failure. Recent events in both the House and Senate on H.R. 5320 and S. 2036 respectively have significantly raised our hopes that veterans are not forgotten in the replacement of CETA. We applaud both the House and Senate Veterans' Affairs Committees for their leadership and commitment to a separate national veteran employment training provision as evidenced by the veteran amendments to each bill. Making funds available to the office of Assistant Secretary for Veterans Employment for grants and contracts based on local veterans employment training needs, will be, in part, a much needed solution to a long standing problem. State/Assistant State Director for Veterans Employment could very well monitor the implementation of these programs' progress and whether or not corrective action is needed.

Nonetheless, we are concerned over two matters. The first is that DoL may take an unreasonable length of time to issue program regulations. The second is that regulations should be written to provide for prompt disposition of proposals for contracts, with applicants not kept in a suspended state. Because time is of the essence, regulations and proposals must be addressed in an orderly and expeditious fashion.

One additional comment concerns the Office of Personnel Management and its requirement under section 3327 of title 5, USC whereby OPM is to post federal openings with local ES offices. We favor the requirement that if a veteran feels that this has not been done, he may file a complaint with the OPM who shall promptly investigate the complaint.

Mr. Chairman, The American Legion applauds the leadership shown by this committee and the House Veterans' Affairs Committee in veterans employment training matters. We believe Chapters 41, 42 and 43 of title 38, USC do not need wholesale revision, but only fine tuning to eliminate persistent problems and make the Veterans Employment Service more responsive in veterans employment training matters.

Thusfar, this statement has been confined to matters associated with employment/training programs for veterans. Since the specific legislation introduced, S. 2747, as well as amendment No. 1984 intended for inclusion in this measure are also open for comment at time, a few remarks are in order.

Title I of S. 2747 addresses itself to a variety of technical changes in educational programs administered by the VA. One of these changes would permit military careerists having served during the Vietnam war period to take advantage of educational benefits, notwithstanding the scheduled termination date of the GI Bill in 1989. It is our understanding that some 800,000 careerists would be eligible.

The American Legion has no quarrel with the intention of these provisions in title I, because they would go far toward promoting retention of expensive-to-train careerists who might otherwise leave military service. In that regard, this organization has long supported the need to aggressively address both recruitment and retention problems in all of the military services.

Importantly, were it not for the provision requiring the Department of Defense to pay for this retention incentive, the Legion would oppose this initiative. Moreover, we do support the provision as a single step in the right direction, but not as a panacea which can be expected to lay recruitment and retention problems to rest once and for all. To accomplish that goal it will be necessary to put in place a peace time GI education bill.

We note that the military services have recently enjoyed a respite from problems in recruiting able-bodied and mentally acceptable personnel. Pay and benefits increases over the last two years along with serious unemployment levels nationwide are two salient reasons for this respite. Should the economy improve or hostilities erupt necessitating American military intervention, we have grave doubts that recruitment levels will remain high or that economically motivated recruits will possess the commitment to duty requisite to successfully carry out disciplined military operations. After having expressed these reservations we remain fully supportive of this portion of title I in S. 2747.

Other of the provisions we will comment upon, presumably would liberalize educational benefits for incarcerated veterans in half-way houses on parole or otherwise less than fully institutionalized. While it is our understanding that it is intended that these benefits be liberalized, the legislative language is less than clear. For that reason we urge the committee to state its intentions unambiguously in its final report of this measure.

Assuming that liberalization is intended, we applaud the wisdom of this committee in making these changes. If it can be said that incarceration is intended to rehabilitate prisoners than it must be recognized that less than fully incarcerated veterans have a legitimate case to make in desiring to take full advantage of their educational readjustment benefits.

One final section of title I which we will address would amend section 242 of title 38, USC by adding a new subsection stating that the Administrator may establish veterans counselors at locations such as educational institutions. Section 243 of title 38, which would be repealed currently provides that the Administrator shall assign full-time veterans representatives to educational institutions where at least 500 persons are enrolled under Chapters 31, 34, 35 and 36 of the title. Unless it is intended that the Vet Rep program be eliminated, The American Legion sees no reason to make this proposed discretionary change. If it is intended that the Vet Rep program be eliminated, The American Legion stands in opposition.

On July 21, 1982, amendment No. 1984 was introduced for the intended purpose of inclusion within S. 2747. We applaud this initiation, particularly regarding the targeted delimiting date extension of eligibility for veterans seeking to utilize their unused remaining educational entitlements.

The purpose last year in enacting this extension as part of P.L. 97-72 was clear. Educationally disadvantaged and unskilled or underemployed Vietnam era veterans were to be afforded an opportunity to avail themselves of additional training with the understanding that these veterans could then compete for employment more successfully with their non-veteran peers. Unfortunately, the VA promulgated regulations for the administration of the program which are so narrow as to render the program nearly useless. With little more than half of the scheduled period of availability of this targeted extension remaining, The American Legion strongly endorses the additional extension and eligibility clarifications in amendment No. 1984.

The second purpose of this amendment would permit an extension of the GI Bill delimiting period for veterans previously unable to take advantage of educational benefits because of alcohol or drug related disabilities. Currently, the VA denies this so-called tolling, for alcohol or drug related dependencies regarding these as willful misconduct.

In conclusion, The American Legion finds this new provision desirable since it recognizes the current medical view that alcohol and drug related problems are treatable diseases. Moreover, the VA currently stands out as the only federal agency having failed to adopt this view and amend its policies accordingly.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 40

COMMITTEE : ECONOMICS

SUBJECT : DISABLED VETERANS OUTREACH PROGRAM

WHEREAS, Congress made permanent the Disabled Veterans Outreach Program with the enactment of PL 96-466 (38 USC 2003A); and

WHEREAS, Appropriations for the program are authorized under title 42, Section 1101, United States Code; and

WHEREAS, Under that authorization are all employment activity services, but not identified as specific line item budget amounts within the Department of Labor's Employment and Training Administration budget; and

WHEREAS, Such fiscal grouping of programs may cause other programs to be funded to the detriment of the Disabled Veterans Outreach Program; and

WHEREAS, Such fiscal grouping of programs provides no fiscal control and accountability of the Disabled Veterans Outreach Program; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion urge Congress and/or the Department of Labor to provide the Disabled Veterans Outreach Program with specific and separate line item budget requests; and be it further

RESOLVED, That the Department of Labor be urged to implement an effective administrative control mechanism to ensure Disabled Veterans Outreach funds are being utilized for the intended purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 72

COMMITTEE : ECONOMICS

SUBJECT : ADEQUATE FUNDING FOR THE VETERANS EMPLOYMENT SERVICE

WHEREAS, Chapters 41 and 42, title 38, United States Code, provide for an effective job placement, counseling and training programs for veterans, and provide, in Chapter 41, that the Secretary of Labor provide necessary funds for this purpose; and

WHEREAS, The U.S. Department of Labor has not fully responded with meaningful and productive efforts to provide for maximum employment and training opportunities for veterans; and

WHEREAS, The U.S. Department of Labor inadequately funds the Veterans Employment Service of the U.S. Department of Labor; and

WHEREAS, Such underfunding compounds the problem of unemployment of veterans, especially unemployment problems of disabled and Vietnam era veterans, which continue to remain at high and unacceptable levels; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion request that the Secretary of Labor shall submit to Congress a line item budget for the operation of the Veterans Employment Service; and require fiscal accountability to ensure that funds appropriated for the Veterans Employment Service are used for such purpose.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 104

COMMITTEE : ECONOMICS

SUBJECT : FULL ENFORCEMENT OF REQUIREMENTS FOR AFFIRMATIVE ACTION FOR ELIGIBLE VETERANS BY FEDERAL CONTRACTORS

WHEREAS, Chapter 42, Section 2012 of title 38, United States Code, requires that any private contractor or subcontractor who has a government contract for the procurement of personal property and nonpersonal services of $10,000 or more shall take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era; and

WHEREAS, This federal statute further requires contractors to list "immediately" with the local Job Service office all of its suitable employment openings; and

WHEREAS, Enforcement of this requirement is vested in the Office of Federal Contract Compliance of the Department of Labor; and

WHEREAS, The Office of Federal Contract Compliance has not, in any meaningful and substantive way, enforced the above provisions; and

WHEREAS, There has been, and is, a blatant disregard of the above provisions by both the Office of Federal Contract Compliance and private contractors, thus denying qualified veterans employment opportunities within the private sector; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that the Office of Federal Contract Compliance in the United States Department of Labor be required to fully enforce the provisions of Section 2012 of title 38, United States Code, which are intended to help eligible veterans to find employment with contractors having federal contracts.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 111

COMMITTEE : ECONOMICS

SUBJECT : REQUEST THE UNITED STATES CONGRESS TO DESIGNATE A SPECIAL SUBCOMMITTEE TO STUDY THE EMPLOYMENT AND TRAINING NEEDS OF VETERANS

WHEREAS, Younger veterans of the Vietnam era and disabled veterans of all eras suffer employment/training problems greater than those of their non-veteran counterparts; and

WHEREAS, There is currently a growing demand for employment/training programs by older veterans; and

WHEREAS, The Congress of the United States has enacted laws providing employment/training programs to veterans either directly or indirectly; and

WHEREAS, Many of these programs are the responsibility of the Department of Labor which has not, in any meaningful and substantive manner, addressed the employment/training problems of veterans; and

WHEREAS, Congress, from time to time, designates a Special Subcommittee to review severe problems of a particular constituency; and

WHEREAS, The employment and training problems of veterans are, in fact, significant enough to warrant Congressional investigation; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that Congress be urged to designate a Special subcommittee to explore veterans employment/training problems.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 302

COMMITTEE : ECONOMICS

SUBJECT : OPPOSE ANY CHANGES IN THE WAGNER-PEYSER ACT HAVING AN ADVERSE EFFECT ON VETERANS

WHEREAS, The Congress, in the passage of the Wagner-Peyser Act of 1933, provided, in part, for the creation of the United States Employment Service; and

WHEREAS, Employment programs authorized by the Act directly benefit veterans; and

WHEREAS, Present budgetary reductions of these programs will have a profound detrimental effect on the employment of veterans; and

WHEREAS, These budgetary reductions will cause untold harm to the State employment security agencies as regard staffing, placement and programs; and

WHEREAS, The State employment security agencies are already under a 30,000 personnel ceiling since 1966 in a labor market which has expanded its demand for services over 30 percent; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion oppose any changes in the Wagner-Peyser Act as regard to programs that benefit veterans; and be it further

RESOLVED, That The American Legion urge full funding of all United States Employment Service programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 346

COMMITTEE : ECONOMICS

SUBJECT : PREFERENCE AND SPECIAL CONSIDERATION FOR VETERANS IN ALL BLOCK GRANT MANPOWER PROGRAMS FUNDED BY THE FEDERAL GOVERNMENT

WHEREAS, The Administration proposes the elimination of present federally funded employment and training programs; and

WHEREAS, The Administration proposes categorical block grants to states which will enable the states to design and implement their own programs based on state needs; and

WHEREAS, Veterans have never been a viable part of previously funded employment/training programs under the Comprehensive Employment and Training Act; and

WHEREAS, Veterans, especially Vietnam era veterans, suffer a higher unemployment rate than their nonveteran counterparts; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that both the Congress and the Administration be petitioned to ensure that veterans are made a substantive and meaningful part of any future federally funded manpower programs.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 441

COMMITTEE : ECONOMICS

SUBJECT : SEEK LEGISLATION TO SECURE SECRETARIAL POSITIONS AS FEDERAL EMPLOYEES FOR EACH STATE DIRECTOR FOR VETERANS EMPLOYMENT

WHEREAS, PL 96-466 (38 USC 2003) placed responsibility to appoint full-time clerical support assistance for each State Director of Veterans Employment upon the Secretary of Labor; and

WHEREAS, Congress, in enacting section 2003, made no provision that these positions should be federal employees; and

WHEREAS, Such ambiguous wording has caused the Department of Labor to interpret section 2003 to place staffing responsibility on the respective states; and

WHEREAS, Such status as State employees would have a severe detrimental impact on State Directors of Veterans Employment; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion seek legislation to amend 38 United States Code, 2003, to secure for each State Director of Veterans Employment full-time federal clerical support.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 468

COMMITTEE : ECONOMICS

SUBJECT : SUPPORT LEGISLATION FOR FLEXIBLE PLACEMENT FOR DISABLED VETERANS OUTREACH PROGRAM

WHEREAS, The Disabled Veterans Outreach Program (DVOP) is mandated by statute, under 38 USC 2003A, with approximately 2,000 nationwide staffers; and

WHEREAS, The requirements of Section 2003A(b)(2) provide that "no more than three-fourth of the DVOP specialists in each State shall be stationed at local employment offices in such State"; and

WHEREAS, The proposed budget cuts to the State employment security agencies may necessitate the curtailment of many local Job Service offices; and

WHEREAS, Such Job Service office curtailments will have a negative impact on the effective placement of DVOP staffers and will further hinder the implementation of the program; and

WHEREAS, The Assistant Secretary of Labor for Veterans Employment should, when warranted, be given the managerial flexibility to place DVOP staffers in offices other than local Job Service offices that would maximize their effectiveness and efficiency; now therefore be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion seek to amend the law (38 USC 2003A(b) (2)) that requires that three-fourth of all staff under the Disabled Veterans Outreach Program be placed in local state employment security agency offices and, instead, provide the Assistant Secretary of Labor for Veterans Employment with authority to place DVOP staff, when warranted for the greatest efficiency, at any time, and in any number, in offices other than local state employment security agency offices.

SIXTY-THIRD ANNUAL NATIONAL CONVENTION
OF
THE AMERICAN LEGION
AUGUST 29-SEPTEMBER 3, 1981
HONOLULU, HAWAII

RESOLUTION NO. : 517

COMMITTEE : ECONOMICS

SUBJECT : REQUIRE THE DEPARTMENT OF LABOR TO PROVIDE THE OFFICE OF ASSISTANT SECRETARY OF VETERANS EMPLOYMENT WITH SEPARATE LINE ITEM BUDGETS FOR ADMINISTRATION AND VETERANS PROGRAMS

WHEREAS, PL 96-466 elevated the Deputy Assistant Secretary of Labor for Veterans Employment position to a full Assistant Secretary for Veterans Employment and statutorily mandated the Disabled Veterans Outreach Program with administrative responsibility to the ASVE; and

WHEREAS, PL 96-466 can only be properly carried out by realigning the currently fragmented veterans programs within the Department of Labor under the ASVE; and

WHEREAS, The ASVE must administer veterans programs, but will have no control or influence over budgets for these programs since budget items for these employment programs for veterans must remain with the parent program component; now therefore be it

RESOLVED, By The American Legion, in National Convention assembled in Honolulu, Hawaii, September 1, 2, 3, 1981, that The American Legion require the Department of Labor to provide the office of the Assistant Secretary of Labor for Veterans Employment with separate and distinct line item budget for the administration of veterans programs; and be it further

RESOLVED, Seek to have all veterans programs within the Department of Labor aligned under the office of the Assistant Secretary for Veterans Employment.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA

May 6-7, 1981

RESOLUTION NO. : 9

COMMITTEE : ECONOMICS

SUBJECT : SEEK LEGISLATION TO SECURE SECRETARIAL POSITIONS FOR EACH STATE DIRECTOR FOR VETERANS EMPLOYMENT AS FEDERAL EMPLOYEES

WHEREAS, PL 96-466 (38 USC 2003) placed responsibility to appoint full-time clerical support assistance for each State Director of Veterans Employment upon the Secretary of Labor; and

WHEREAS, The Secretary of Labor has interpreted Section 2003 to mean that such full-time clerical support shall be drawn from the respective State Employment Security Agency personnel; and

WHEREAS, The Department of Labor's fiscal '82 budget proposes the elimination of such clerical support as federal employees; and

WHEREAS, Such status as State employees frustrates the intent and principle of Section 2003; and

WHEREAS, Such status as State employees will have a severe detrimental impact on State Directors of Veterans Employment; now therefore be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, May 6-7, 1981, that The American Legion seek legislation to amend 38 United States Code, 2003, to secure for each State Director of Veterans Employment full-time federal clerical support.

NATIONAL EXECUTIVE COMMITTEE
OF THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
OCTOBER 14-15, 1981

RESOLUTION NO. : 22

COMMITTEE : ECONOMICS

SUBJECT : SEEK ESTABLISHMENT OF SEPARATE VETERANS EMPLOYMENT TRAINING PROGRAM APPROPRIATIONS TO BE ADMINISTERED BY THE VES

WHEREAS, The employment training needs of all veterans, especially Vietnam era veterans and disabled veterans, are substantially diverse from the employment training needs of other groups served by current manpower programs; and

WHEREAS, Programs under the Comprehensive Employment and Training Act have never delivered adequate services to veterans despite federal requirements and guidelines; and

WHEREAS, The current Administration proposes the elimination of CETA in many respects and to substitute manpower programs to be administered by the states predicated on their respective needs; and

WHEREAS, Based on this proposal States and the State ES system have not been historically responsible to the manpower needs of their veterans; and

WHEREAS, Chapter 41 of title 38, United States Code, provides that the VES, among other things, is to design and implement veterans employment training programs; and

WHEREAS, Congress has never appropriated funds for the VES to specifically address the severe problem of veterans unemployment and underemployment; and

WHEREAS, This inability to actively and decisively affect veterans employment training has caused the VES to assume a passive and secondary role; and

WHEREAS, The appropriation of separate funds for the VES to design, implement and monitor veterans; employment programs would have a profound positive effect on underemployed and unemployed veterans; now therefore be it

RESOLVED, By The National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 14-15, 1981, that The American Legion seek to have Congress appropriate funds specially earmarked for the use of the VES to design, implement and monitor manpower training programs to meet the unemployment and underemployment needs of veterans.

The American Legion
For God and Country
★ WASHINGTON OFFICE ★ 1608 "K" STREET, N.W. ★ WASHINGTON, D.C. 20006 ★
(202) 861-2700 ★

August 4, 1982

Honorable Alan K. Simpson, Chairman
Committee on Veterans Affairs
United States Senate
410 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Simpson:

In your letter following up the July 28 hearing on Veterans Education and Employment, you asked for suggestions on how the Disabled Veterans Outreach Program (DVOP) might be shielded from future budget reductions if DVOP were funded out of general revenues. In short, Mr. Chairman, there are no guarantees against future DVOP funding reductions.

Our suggestion for funding from general revenues is grounded in a concern that funding allocated for DVOP, from whatever source, be spent on that program and that program only. Unfortunately, this has not been the case in the past.

Perhaps an explanation of the setting in which the DVOP operates will shed some light on the matter. Currently there are two basic federally mandated programs for veterans operating out of State Employment Security Agencies (SESA) or local job offices. These are the Local Veterans Employment Representative program (LVER) and DVOP.

Local Veterans Employment Representatives are intended to be responsible for advising and assisting veterans seeking employment from the local job office. DVOP specialists are intended to advise and assist veterans seeking employment from the field by reaching out into the local community. The specialists of each program have been administratively responsible to the local job office manager and salaries for each have come out of the Federal Unemployment Trust Account (FUTA).

Since most of the numerous programs administered by local job offices are funded out of FUTA, it is extremely difficult to insure that veterans programs are funded sufficiently to comply with federal law. Moreover, from the local job office standpoint it has been easy to disguise non compliance.

After having said that, it must be made clear that The American Legion is sensitive to the needs and problems of local job offices. Without them, there could be no organized national employment programs for veterans. Unfortunately, over the last several years, these job offices have been given more responsibilities than they can adequately staff.

With this job office burden in mind, it is understandable that specialists intended to work exclusively with veterans are in fact assigned responsibility for all who enter the job office for assistance. In our view, there can be no other explanation for why it is that so very few veterans outreach specialists are to be found in the field where they were intended to operate. Instead, they work along side LVERs and all other personnel in the job office.

Mr. Chairman, the Veterans Employment Service (VES) has recently been administratively placed under the Assistant Secretary of Labor for Veterans Employment. We are hopeful that this fact will go far toward policing local job office compliance with law under title 38. The guarantee of compliance, however, will continue to elude us, unless DVOP is funded separately. Only in this way, can money appropriated for DVOP be accounted for adequately.

Hopefully this answers your question. Our focus in this matter has not been on insurance against funding cuts but instead on insurance that monies made available for DVOP are used for DVOP. If you desire further clarification of anything in this explanation, please feel free to contact us again--before the August 12 mark-up if necessary.

Sincerely,

Paul S Egan

Paul S. Egan, Deputy Director
National Legislative Commission

PREPARED STATEMENT OF RONALD W. DRACH, NATIONAL EMPLOYMENT DIRECTOR, DISABLED AMERICAN VETERANS

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the entire membership of the Disabled American Veterans, I want to take this opportunity to thank you for allowing us to appear before you today to offer our views on veterans' employment programs.

We believe that these hearings are indeed timely and necessary. The Disabled American Veterans has attempted to keep the Committee informed of current developments as perceived by the DAV in employment by providing copies of letters dealing with policy and other problems.

As you know, Mr. Chairman, much is happening at the present time regarding employment matters. We would like to thank you for your support of Employment and Training Programs for veterans, especially your recent actions to offer an amendment to S. 2036 on July 1, 1982. We would also like to especially thank Senators Thurmond and Cranston for their support of your amendment. As you know, that amendment was accepted and provides employment assistance to this Nation's veterans in a future employment and training program designed to replace the current Comprehensive Employment and Training Act (CETA). We thank all of the Committee members and the other co-sponsors for their support.

Although these hearings are designed to obtain input from the veterans organizations on various employment programs, I intend to restrict my remarks today to veterans employment programs as contained in Title 38, U.S. Code.

As we know, there are significant employment provisions as they relate to the private sector and public sector contained in Chapters 41, 42 and 43 of Title 38, U.S. Code.

By virtue of the fact that the majority of employment opportunities are in the private sector, we believe the emphasis should be placed there. Thus, our heavy reference to the employment security system and the Veterans' Employment Service regarding their efforts to find employment opportunities for this Nation's veterans, especially those who were disabled in time of war or conflict.

As we know, Mr. Chairman, Public Law 96-466 contained significant employment provisions to include the establishment of the position of Assistant Secretary of Labor for Veterans' Employment (ASVE) and making permanent the Disabled Veterans' Outreach Program. Regrettably, we have not seen this legislation obtain its full potential.

Admittedly, there is currently in place an Assistant Secretary of Labor for Veterans' Employment, William C. Plowden. Mr. Plowden was confirmed and took the oath of office in December of 1981 almost a full year after the current Administration took office. This delay, in and by itself, detracts from the legislative intent to have an Assistant Secretary advising the Secretary of Labor on matters of employment as they relate to this Nation's veterans.

Also it has been almost two years since the enactment of this law and it is still questionable whether the literal intent of the Disabled Veterans' Outreach Program as currently mandated by Section 2003A has been met. We have recently requested a state by state breakdown of the assignments of these individuals from Mr. Plowden. This request is identified as Attachment 1 to this statement.

As you know, Mr. Chairman, Congressman Robert Edgar, Chairman of the Subcommittee on Education, Employment and Training of the House Veterans Affairs Committee has introduced H.R. 6440 which we believe is necessary to strengthen the authority and responsibilities of the Assistant Secretary for Veterans Employment, the Veterans Employment Service, and the field staff of State and Assistant State Directors for Veterans Employment. We are fearful that without this extension of authority and responsibility that any new legislative or administrative initiative will not benefit or serve veterans adequately. We think history will repeat itself in future Employment and Training Programs as witnessed by the dismal success of prior programs under CETA, the Help Through Industry Retraining and Employment (HIRE) Program and other attempts to provide meaningful employment assistance.

I would like to offer the Committee the following official Department of Labor data regarding employment services and CETA participation for veterans.

In Fiscal Year 1981 the network of some 2400 Job Service/Employment Security Offices provided placement to 24.7% of all available veterans; 11.2% of these available veterans received counseling and 30.5% received some form of assistance under job development. A full 25.5% had their applications for assistance inactivated with no services whatsoever.

We are fearful Mr. Chairman, that with the current budgetary restraint and personnel cutbacks in these job service offices that this dismal record will worsen.

The various legislative authorities for the Comprehensive Employment and Training Act provided certain "special considerations" for this Nation's veterans. According to the

Employment and Training Report of the President transmitted to the Congress in 1981, "In Fiscal Year 1980, veterans accounted for about 8% of participants under Title IIB and C programs; 14% under Title IID; 15% in Title VI; and 12% in Title VII." (emphasis added) We believe these data bear out the need for strengthening the language currently contained in Title 38 as it relates to employment services.

Mr. Chairman, the DAV generally supports the provisions of H.R. 6440. We believe that many of the provisions in H.R. 6440 are intended to strengthen employment services to this nation's veterans. Over the past decade or more, we have been given excuses rather than reasons why veterans employment and training programs have not worked. We believe one of the reasons is the lack of authority and responsibility for the VES to assure local and state compliance with the federal statutes. We believe the provisions in H.R. 6440 would, among other things, confer on the Veterans Employment Service the responsibility, authority and accountability so badly needed to assure future programs success.

Mr. Chairman, we strongly emphasize the need as we see it that the Assistant Secretary of Labor for Veterans Employment must have total control of all funding for employment and training programs for veterans. Without that fiscal control and accountability, local administrators will spend future monies as they see fit. Mr. Chairman, I would like to point out that your amendment to S. 2036 gives the ASVE that authority for that program.

Mr. Chairman, another reason the DAV so strongly supports H.R. 6440 is that it satisfies approximately half of our National Convention employment resolutions adopted at our National Convention in 1981.

One provision in H.R. 6440 that heretofore has not received Senate support is the deletion of the definition of "special disabled veteran." We have always enjoyed support for this requested change from the House and, several years ago an amendment similar to that contained in H.R. 6440 was passed unanimously by the House but failed to get the needed attention in the Senate.

Mr. Chairman, we believe that this amendment is necessary to obtain consistency. When the provision for "special disabled veteran" was added by Public Law 93-508 (for purposes of affirmative action by federal contractors), that same legislation reduced from 30% to 10% the basic eligibility for vocational rehabilitation as administered by the Veterans Administration. It is our firm belief that all disabled veterans should be included for affirmative action purposes in order to correct this inequity as well as to maintain consistency in definitions.

To my knowledge Mr. Chairman, there are two major reasons for opposing this change:

1. Expanding the universe of covered veterans, and
2. Employers covered by the statute would "cream" the lesser disabled veteran population for their work force.

We believe that both of these arguments should be looked at and discussed objectively. While the first argument is valid in a numerical sense, it is invalid in a practical sense. It is impractical Mr. Chairman, because those individuals rated 10% and 20% for the most part are covered for "affirmative action" by certain federal contractors under Section 503 of the Rehabilitation Act as amended. In fact, Mr. Chairman, it is our belief that by putting these veterans under the veterans' statute rather than the "handicapped" we will probably lessen the number covered. The reason it may be reduced Mr. Chairman, is because under Section 503 the contract amount for federal contractors is $2,500, while the contract amount for veterans is $10,000. Accordingly, while we may have more "disabled veterans" covered in actual practice, less will be covered, because fewer contractors will be taking affirmative action because of the $7500 contract amount difference between Section 503 and Section 2012(a).

The Administration through Mr. Plowden at the hearings last month, expressed their belief that extending the eligibility "will serve to diminish the benefits of the program in several ways. The intent of the FCJL Program is to provide 'affirmative action' for employment and advancement to those groups of veterans (30% or more disabled and Vietnam era) which have experienced a disproportionately high share of the unemployment." Mr. Chairman, we do not believe that the Department of Labor can prove that 30% or more disabled veterans have experienced "a disproportionately high share of unemployment." While it is generally accepted that this is a truism, there are no data to bear out that theory. Instead, the Disabled American Veterans believes that all disabled veterans bear a disproportionate share of unemployment.

We indicated that these lesser disabled veterans are currently covered for affirmative action by definition of "handicapped individuals." Mr. Chairman, we believe that this nation has always accorded a special status to its veterans who were disabled in the course of duty to our country. This is evidenced by a long standing national policy of providing disability compensation, health care, vocational rehabilitation to certain disabled veterans to retrain them for the job market and even a certain amount of preference in obtaining federal employment. We would like to point out the irony here Mr. Chairman, in that for purposes of affirmative action and veterans preference in federal employment, there is no 30% requirement. Ten percent and 20% service-connected rated veterans are entitled. Also as indicated, these disabled veterans are already covered, therefore, you are not increasing the universe of coverage, you are only putting the "lesser disabled" veterans under the proper jurisdiction -- Title 38, U.S. Code.

For these reasons, Mr. Chairman, we cannot accept the argument that disabled veterans who have combat disabilities rated less than 30% are classified as "handicapped individuals." They should be classified as disabled veterans.

I would like to also discuss the issue of "creaming." The major concern here Mr. Chairman, is that covered contractors will hire those disabled veterans with disabilities rated at a lesser degree, thereby not providing employment opportunities for the more severely disabled. One implication of this Mr. Chairman, is that if it is not changed, employers will continue hiring the more severely disabled veteran. We don't think that is true. Historically, they have not hired the more severely disabled veteran, or for that matter very many disabled veterans. According to available data from the Department of Labor, approximately 0.3% of all job listings by these federal contractors are filled by covered disabled veterans. If by expanding the definition we expand that 0.3% to 0.6%, we have provided significant employment opportunities for disabled veterans.

The creaming argument also implies that this program has goals, timetables or some other numerical measurement to determine the success or failure of this program. At this present time, no such mechanism exists.

This leads us to the next subject which we wish to discuss and is also contained in H.R. 6440. That is the requirement for employers to report "at least quarterly on the total number of new hires of such contractor and the number of such hires who are Vietnam era veterans, disabled veterans, and other eligible veterans."

We believe this provision is necessary in order for the Department of Labor to have a management tool in order to monitor activities of federal contractors who are required to take affirmative action.

Without such reports Mr. Chairman, the Department of Labor can only react to complaints filed as opposed to taking positive actions to assure compliance. We believe that this should not be a reactionary complaint oriented program, but one of conciliatory enforcement.

I would also like to point out Mr. Chairman, should such a report be required and, the definition of disabled veteran be amended to include those rated at 10% or 20%, we could settle the issue of "creaming" by making a report that addresses the issue of what categories of disabled veterans are employed.

Should this happen and we ultimately find out that employers are "creaming" I will request our National Convention immediately following disclosure to unanimously adopt and support a resolution to change the definition back to "30% or more."

Mr. Chairman, another argument that has been used against portions of H.R. 6440 is that they are "duplicative."

Mr. Chairman, the DAV prides itself on being fiscally responsible and supportive of fiscal restraint. We do not like to see overlapping or duplicative programs. However, Mr. Chairman, if the provisions of 6440 are indeed duplicative and if it is going to take duplication to assure that this nation's disabled and other veterans who served in time of war or conflict, are to receive the needed services, so be it.

Mr. Chairman, as we know Public Law 96-466 established the position of Assistant Secretary of Labor for Veterans Employment. Along with that position we believe the Congress intended that the

VES be a separate identifiable component on a level of equality with other programs within the Department of Labor. This of course entails a reorganization which is currently being undertaken by the present ASVE.

Mr. Chairman, Mr. Plowden testified last month that as part of their reorganization, the Secretary of Labor does not wish to transfer the functions of the Office of Veterans Reemployment Rights to the Office of ASVE. The Disabled American Veterans has to take exception to the Secretary's decision in this matter.

We believe it is incredible that the Secretary would even consider retaining a veterans program in an office other than the Office of the ASVE. Good management would dictate that the ASVE would have responsibility for administering all veterans' employment programs. We cannot emphasize strongly enough the need to transfer the Office of Veterans Reemployment Rights with its attendant national and field staff, as well as appropriated funds, to the Office of the ASVE. We are fearful that without that transfer the Assistant Secretary would have little, if any, input into policies administered through the Reemployment Rights statutes.

Also on the subject of OVRR, there has been some question as to whether or not the responsibility for enforcing reemployment rights for veterans in the federal sector should be transferred to OVRR. We believe that the concept needs serious consideration and review by this Committee.

OFFICE OF PERSONNEL MANAGEMENT

Mr. Chairman, we have discussed some of the provisions in H.R. 6440, as well as the Department of Labor's role in providing employment assistance to this nation's disabled and Vietnam era veterans, as well as all veterans.

We would like to turn now to the Office of Personnel Management and its role of enforcing veterans' preference and overseeing affirmative action programs for these veterans.

At the outset, the DAV would like to express its appreciation to Dr. Donald Devine, Director of the Office of Personnel Management for the strong displays of support for veterans' preference. Dr. Devine has been very open with us and, has expressed publicly and privately his support for maintaining veterans' preference and affirmative action programs for veterans. This is a welcome change of philosophy from the prior Administration, who as we know attempted to severely modify and curtail veterans preference.

Mr. Chairman, in 1978 President Carter, through an Executive Order, transferred the affirmative action functions for disabled veterans to the Equal Employment Opportunity Commission. While the Disabled American Veterans expressed no major concerns over this transfer, we did question what ongoing role OPM would play since the basic statutory responsibilities and authorities could not be transferred from OPM to EEOC through an Executive Order. We maintained that the Executive Order did not amend Title 38, U.S. Code.

Dr. Devine ultimately determined that OPM should play a very significant role in assuring compliance with Section 2014. By virtue of his actions, OPM published for public comment in the June 4, 1982 Federal Register a proposed rule titled "Affirmative Employment Programs: Affirmative Action for Disabled Veterans."

Mr. Chairman, the DAV supports for the most part the proposed rule and I have attached to my prepared statement our July 6, 1982 letter commenting on this subject (attachment 2).

Another obvious major concern to the DAV regarding OPM is the announcement that a task force has been established to study the issue of a more equitable method of laying off employees during a Reduction-In-Force (RIF). As we know, veterans preference plays a role in retention during a RIF. Dr. Devine has assured us that in any modification to the RIF process, veterans preference will be maintained. While we have no reason to question Dr. Devine's assurances, we will be watching the activities of the task force to assure the retention of the Congressionally mandated requirement that veterans be given certain preference in a RIF.

Mr. Chairman, as you know the Civil Service Reform Act of 1978 added Section 3312(b) to Title 5, U.S. Code. Specifically this section requires that federal departments and agencies who propose to deny employment to certain disabled veterans based on medical reasons must provide advance notice to OPM as to their reasons. The agency must then keep the position open pending a review and determination by OPM. The affected veteran also has an opportunity to provide comment on the agency's reasons.

We have expressed our concern to Dr. Devine over the potential administrative problems associated with that program. Specifically, we are interested in learning about the number of such requests by agency to deny employment and the other associated data to determine how effective this program may be. As additional information is obtained we will keep the Committee informed.

I would like to point out that for approximately two years the DAV maintained that the Postal Service was required to comply with that provision of law. The Postal Service in turn questioned their obligation and, that reluctance on the part of the Postal Service continued despite a General Counsel opinion from OPM saying that the Postal Service must comply. After numerous letters to the Postmaster General, hearings before the House Veterans Committee, Subcommittee on Education, Employment and Training and the General Counsel opinion, the Postal Service ultimately accepted its responsibility and published guidelines and procedures in Postal Bulletin 21315, dated September 10, 1981.

We are in the process, Mr. Chairman, of requesting some information from Postmaster General Bolger on the potential success or impact of this program.

We shall continue to monitor Postal Service activities and also other federal departments and agencies to assure their compliance with the statutory requirements of not only the Veterans Preference Act but the Affirmative Action mandate contained in Section 2014, Title 38, U.S. Code. We will also be reviewing the activities of OPM in an attempt to assure they carry out their function. Again we will keep the Committee informed.

Mr. Chairman, we believe that there is no easy answer to the ongoing unemployment problems of disabled and Vietnam era veterans. We also believe that S. 2036, as amended, and H.R. 6440 go a long way in addressing these problems. What we need is good management with forceful and effective enforcement of existing laws and subsequent laws such as we hopefully will see in the near future in the form of S. 2036 and H.R. 6440.

However, I have to emphasize that without strong and effective enforcement, we will be facing these same problems 10 years from now. I should point out Mr. Chairman that on October 24, 1982, Public Law 92-540 will be 10 years old. That public law, when enacted almost 10 years ago, was talked about as being the answer to the unemployment problems of disabled and Vietnam era veterans. Regrettably, despite that law and subsequent numerous amendments, disabled and Vietnam era veterans are worse off in terms of employment and employment opportunities than they were a decade ago. Official unemployment among Vietnam era veterans approaches 750,000.

I would like to further reinforce our views as to why we believe strong and effective enforcement is needed. I offer the following excerpts from the Harris Survey titled Myths and

Realities: A Study of Attitudes Toward Vietnam Era Veterans. As you know the study was printed by the Senate Veterans Affairs Committee in July, 1980.

1. "Trouble finding a job is the problem Vietnam Era Veterans are most likely to have encountered since being separated from active duty..."

2. "The special commitment to hiring VEVs that employers felt in 1971 has declined over the decade of the 1970s. While employers' interest in hiring these veterans is still high, it is considerably below the levels recorded in 1971..."

3. "...employers have come to face competing affirmative action demands from other groups, and even though some of these groups may not be viewed as being as much in need as VEVs, they are seen as more likely than VEVs to be given preference in hiring."

4. "Most employers have hired Vietnam Era veterans in the past three years, although a minority have participated in any government or privately sponsored programs to assist VEVs in getting jobs"

5. "For Vietnam Era veterans, employment problems have been the most widespread type of problem encountered since leaving the service. More than 1 in 4 VEVs (28%) state that they have had problems or difficulties in finding a job since leaving the service. Almost half (49%) cite employment problems as one of the most serious problems faced by veterans since leaving the service."

6. "Two out of three employers (67%) say that companies like their own are very or somewhat interested in emphasizing the hiring of Vietnam Era Veterans."

7. "While virtually no employers (1%) would give preference to the nonveteran, the percentage who would choose the VEV over the nonveteran has dropped from 53% in 1971 to 33% today."

8. "...in this survey 64% of employers said it wouldn't make a difference whether or not the applicant had served in the Armed Forces..."
(NOTE: This would lead us to conclude that these employers don't take affirmative action for Vietnam era and disabled veterans)

9. "Employers rank Vietnam Veterans eighth out of eleven groups in needing special help to get their fair share of jobs..."

10. "Employers rank Vietnam Veterans fourth among the eleven as a group to which employer should give preference; however, Vietnam Veterans fall back to sixth place when it comes to ranking which groups actually do get preference in hiring."

11. "In terms of which groups actually get preferential consideration in hiring decisions, Vietnam Veterans rank behind blacks, the handicapped, disabled VEVs, women, and Hispanics."

12. Fewer employers feel that women need special help than feel that Vietnam Veterans do, and fewer cite blacks, Hispanics or women as groups that should get special help. Nevertheless, according to the employers, these groups all beat Vietnam Veterans in the affirmative action sweepstakes." (emphasis added)

Mr. Chairman, I would like to conclude my statement by quoting the revered statesman Hubert Humphrey "If people understood the extent to which unemployment affects the suicide rate, divorce rate and crime rate, they would be a lot more inclined to do something about it."

I will be happy to answer any questions.

Attachment 1

June 30, 1982

Mr. William C. Plowden, Jr.
Assistant Secretary of Labor
for Veterans Employment
U. S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Plowden:

On June 22, 1982 you appeared before the Subcommittee on Education, Employment, and Training chaired by Congressman Robert Edgar. The main purpose was to discuss the provisions of H.R. 6440. I have provided additional comments to the Subcommittee on your position regarding H.R. 6440. A copy has been furnished to you.

In reviewing your prepared text I note on page 2, "The Disabled Veterans Outreach Program, staffed by some 2,000 veterans located in most Job Service Offices, provides special assistance to other veterans. Unique to this program is the outreach emphasis provided to seek out and help disabled and Vietnam-era veterans."

As you know this is required by Section 2003A of Title 38, U.S. Code and became effective October 17, 1980. We question whether 2,000 DVOP personnel are employed at the present time and believe that your statement to the Committee is misleading. We are requesting information as to the total number of DVOP personnel on board, by state and average salary at the present time.

Section 2003A also requires outstationing of not less than 25% of these personnel. We would like a state by state breakdown of the percentage of DVOP personnel outstationed.

On page 6 of your prepared statement, you express your opposition to the VES having "...functional responsibility for the participation of veterans in Federal employment and training programs and of job listings, referrals, and complaints under the Federal Contractor Job Listing program... While these programs are operationally under other offices, we work very closely in meeting our national obligations under these programs. My office and field staff will continue its functional oversight roles of all veterans employment and training programs, consequently this provision is unnecessary."

As you know, the DAV strongly supports the changes as contained in Section 6 of H.R. 6440. We do not agree with your rationale as to why the changes should not occur and would like your response to the following questions:

1. What do you see as being your "national obligations under these programs."
2. What "functional oversight roles" does your office and your field staff currently exercise?
3. How often do you personally meet with the Director of OFCCP and the Deputy Under Secretary for Employment Standards?
4. What ongoing relationship does your office have with the national office of OFFCP?
5. What relationship does your field staff have with the regional and area offices of OFCCP?
6. How often do you require your State Directors and Assistant State Directors to meet with Area Office Managers of OFCCP?
7. Are you or any staff member working with OFCCP regarding any regulatory changes to the Affirmative Action Program?
8. What is your office doing to assure timeliness of resolution of complaints through OFCCP?

9. What are you doing personally to assure the Director of OFCCP allocates additional resources to the Veterans Programs as promised?

This information is needed in order for the DAV to plan its course of action, both legislatively and administratively, for the future

Your early attention and response to this request will be appreciated.

Sincerely,

RONALD W. DRACH
National Employment Director

RWD:dd

Attachment 2

July 6, 1982

Assistant Director for
Affirmative Employment Programs
U.S. Office of Personnel Management
1900 E Street, NW
Room 7528
Washington, DC 20415

Dear Assistant Director:

The Disabled American Veterans has had the opportunity to review the "Proposed rule" published in the Federal Register Friday, June 4, 1982 regarding "Affirmative Employment Programs; Affirmative Action for Disabled Veterans."

We support the Office of Personnel Management's decision to modify Part 720 of Code of Federal Regulations 5 to incorporate the affirmative action requirements for disabled veterans as required by Section 2014 of Title 38, U.S. Code.

We are pleased that OPM has recognized its responsibility to oversee federal departments and agencies carrying out the Congressional intent of Section 2014 of Title 38, U.S. Code.

We are also pleased to see the incorporation in Part 720 the requirements under Section 3112 of Title 5, U.S. Code as added by the Civil Service Reform Act of 1978. We had previously commented that the regulatory authority of 3112 should not be contained in Part 316, Subpart D of Title 5, CFR. We believe that the regulatory authority of Section 3112 most appropriately belongs in Part 720 of the Affirmative Employment Programs CFR 5.

In general, the Disabled American Veterans supports the proposed rule as stated and would like to specifically comment on Section 720.304(d)(5), which addresses the "...internal advancement opportunities for disabled veterans."

For all too long, little, if any emphasis has been placed on the advancement in employment requirement of the statute. We believe, if properly implemented, reviewed and assessed, not only will agencies be more cognizant of their obligation to hire but also to advance in employment qualified disabled veterans.

One area of concern to the DAV is Section 720.304(c)(1) where it states "the Office of Personnel Management will review a selection of agency plans each fiscal year." (emphasis added)

The Disabled American Veterans believes that OPM has an obligation to review all agency plans as opposed to a selection of agency plans. Our reason for this is based in the authorizing legislation (Section 2014(d)) which states in part "The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each such department, agency and instrumentality...." (emphasis added)

Accordingly, we believe that OPM must not deviate from the original Congressional purpose by only selecting agency plans for review.

We look forward to effective implementation of these regulations during the coming years.

Sincerely,

RONALD W. DRACH
National Employment Director

RWD:bc

RESPONSE OF THE DISABLED AMERICAN VETERANS TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. How will veterans' preference be modified under the new "RIF" guidelines being proposed now by OPM?

Answer 1. The veterans organizations have been assured by Dr. Devine's office that in no way do they intend to modify or change veterans' preference in a Reduction In Force.

We mention this in our prepared testimony submitted to the Committee and we currently have no reason to question Dr. Devine's assurances to us. However, we will be watching closely the activities of the task force to make sure the Congressionally mandated requirements of veterans' preference are maintained in any RIF proceeding changes.

Question 2. Please describe the "compromise" you were not able to discuss at the hearing.

Answer 2. As you know, the Disabled American Veterans has for approximately 8 years sought a change to the definition of disabled veteran for the purposes of affirmative action in the private sector (see Section 2011 and 2012, Title 38 U.S.C.).

In my prepared statement of July 28th I go into some detail as to why we believe these changes are necessary and equitable. However, realizing your strong position not to expand the "pool of eligibles" to existing programs, we are prepared to offer the following compromise.

According to Veterans Administration statistics, there are 2,279,064 service-connected veterans. Of these 1,330,927 are rated 30% or higher and accordingly are entitled to affirmative action under Section 2012, Title 38, U.S.C. By expanding the eligibility to those rated at 10% and 20% we will add 1,243,137. However, there are currently 1,328,075 service-connected disabled veterans age 55 and over. By restricting affirmative action to those under age 55, we would actually reduce the eligible population by 82,938.

Accordingly, we would offer that the term "special disabled veteran" be stricken from Section 2011(1) and wherever it appears and incorporate the term "disabled veteran" in lieu thereof. Disabled veteran would then be defined as "(A) a veteran who is entitled to compensation under laws administered by the Veterans Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability and (C) who has not attained the age of 55."

By doing this Mr. Chairman, we believe that we will not only reduce the eligible population but we will be focusing in on the younger service-connected disabled veterans. We are hopeful that this compromise will be acceptable to you.

Question 3. Please describe the language you would advise including to make sure the U.S. Postal Service and Postal Rate Commissions are included in the provisions of S. 2747.

Answer 3. In reviewing S. 2747 it is indicated in Section 207 that "Section 2011(5) is amended by inserting a comma and "the United States Postal Service and Postal Rate Commission" after "Title 5".

It would appear that because the definitions contained in Section 2011 of Title 38, U.S.C. are applicable to the entire Chapter 42 that this amendment to 2011 would satisfy our concern.

In reviewing closely the requirements of Section 2014, I suggest that the Committee consider amending Section 2014(c) by adding after, "instrumentality" the following:

"including the United States Postal Service and Postal Rate Commission."

I concede that this may be redundant in view of the proposed amendatory language to 2011(5). However, I believe that this should receive close scrutiny because of past experience with the Postal Service.

Chairman SIMPSON. I want to thank each and all for their cooperation and their interest and for being with us.

That concludes the hearing. Thank you.

[Whereupon, at 11:13 a.m., the hearing was concluded.]

[The following prepared statement and letter were received by the committee for insertion in the hearing record:]

PREPARED STATEMENT OF MAURICE E. LOIR, LEGISLATIVE DIRECTOR, MILITARY ORDER OF THE PURPLE HEART

Mr. Chairman and Members of the Committee:

Our organization is very pleased to submit a statement for today's hearing. Rather than try to cover the entire scope of the hearing, we will confine ourselves to those issues that fall within Chapters 41 and 42 of Title 38.

Many attempts have been made to improve employment opportunities for the veteran, but none seem to achieve anything more than mixed results. Problems continue to linger on despite the attempts to find remedies. When a program is conscientiously administered, we can usually expect a high degree of success. Unfortunately, the veteran's programs face a considerable amount of apathy and non-compliance. Most of the problems we encounter do not have a legislative remedy, but perhaps the Committee can influence the regulatory process. We will review those items of concern that we find in Chapters 41 and 42.

In §2003, we cannot find any provision for a VES Regional Director, and we do have some mixed feelings on this point. There are times when we have questioned the need for a RDVE.

We have a strong disagreement with the residency rule for the VES staff. We feel it to be very discriminatory. The VES staff should be able to transfer from one state to another in accordance with the general procedure found in Title 5. This freedom of transfer will increase opportunities for merit promotion of an assistant to state director. One of the arguements against this is the idea that the problems in one state cannot be understood by someone who worked in another state. This is nonsense. We are speaking of professionals who know their job. They should easily adapt to the conditions in another state. Another arguement is that too many may apply for a SDVE opening. Shouldn't a wider choice of applicants lead to greater qualifications and a higher standard of performance? We would like to see a point where all RDVE's and SDVE's will be appointed from the field staff.

The VES staff is set at one assistant for each 250,000 of the veteran population, yet for some reason, we seem to face continuious staff shortages in the major population centers. If we take a look at New York, the VES is supposedly up to strength. Yet New York City has two assistants and we find one more in the Long Island area. They serve a combined total of 1.5 million veterans. Going back to the HIRE II period, New York City only had one assistant with a population in excess of one million veterans and over 100,000 of them unemployed.

Obviously much more flexibility in assignments in needed.

The need for flexibility is further demonstrated by the ASDVE responsibilities as set forth in §2003(1) thru (7). The amount of work involved in this responsibility increases very sharply as the population increases. Generally, the ASDVE has no clerical assistance. At times in the past, the ASDVE might have gotten WIN or CETA help. I would hope that any new employment and training initiatives include some type of public service category that may provide clerical help for agencies like the VES.

As a further point on §2003(1), the periodic cut-off of travel funds does little to improve the quality of SESA services. Local offices need constant supervision and evaluation. We have found examples where referrals and notations are pencilled in on the file cards and a computer check reveals these notations to be false. In some offices this is a common practice prior to an evaluation. Other offices sometimes fail to input veterans in the computer. When a check is made, the veteran does not exist. This is done in an attempt to control the data for VPI compliance.

Those who apply for public assistance must first register with SESA. Attempts must be made for job referral, training, or for CETA services. We have examples of SESA staff doing little or nothing in many of these cases. We know of at least one CETA prime sponsor who could not find any economically disadvantaged veterans, while we knew of 201 who were on public assistance. What happens when an ASDVE reports this type of information? Usually nothing. Any attempt at corrective action is rare.

We can point to one example of a jurisdictional problem that caused 638 veterans to be dropped from SESA files in November, 1980. About 85% of these veterans did not receive any services. The veterans had to cross a county line to go to a SESA office. They could not be referred back to the county of residence, but could be referred to jobs over a hundred miles in the opposite direction. They were not eligible for any CETA services from the SESA office. Yet within five miles of the office, a major airport has many, many federal contractors and thousands of jobs with frequent turnovers. This situation not only affects the veteran, but the general population as well. The VES has been reporting it for over six years. DOL has yet to act on it.

We often expect a lot from the VES field staff, but we just as often neglect to give them support. We are not really sure where the failure lies - at the state, regional, or national level. But we do think it about time for some corrective action. The RDVE and SDVE should have the needed contacts at the state level to insure action at the local level.

Moving on to §2003A and DVOP, we see and hear of too many examples of SESA trying to manipulate the program. Too many office managers frustrate the intent of the law. It should be clearly understood by SESA that the DVOA should spend some time in the field, that the DVOA should have access to local office files and listings. This should include every office in the district or jurisdiction. It should be clear too, that the DVOA must have travel funds and telephones. By outstationing DVOA's, we are avoiding some of the problems found in the local office and some effective outreach work should be the result. Local Social Service offices should be included as one location for the DVOA to visit on a regular basis.

In §2004 we find the rule for LVER's in local SESA offices. However, we often hear of cases where a LVER is reassigned, removed, or put on a part time assignment, and the VES becomes aware of it after the fact. Steps should be taken to insure that no such changes can take place without prior approval from VES.

Thus far we have listed deficiencies, but have neglected any mention of remedies. There really is only one remedy, money. The problems in DVOP should be overcome if the VES has direct control over the funding. The state can pay the salary, but the state can ask VES for the funds.

DOL should have tighter control over funding for SESA. The threat of a cut-off of funds should be enough to improve performance. State officials can become more involved by taking action against office managers with records of poor performance. I have often heard that this will violate civil service practice. This is nonsense. Civil service rules do allow for disciplinary action in cases of improper job performance. If these rules are used once, that alone should be enough to convince other office managers to do their job well.

We ask the Committee to take a careful look at the funding procedure and consider where authority should lie to suspend funding.

Such a review will serve notice on all SESA offices that DOL means business. This alone will have a beneficial effect.

The federal contractor responsibilities in §2012 have no real enforcement or monitoring authority. For all practical purposes, it exists only on paper. However, the problems of compliance are very different from that of SESA or CETA. A strong public relations effort can accomplish far more than any attempt at enforcement. Programs can be put together by local veterans groups with leadership from VES that could produce many job openings for veterans. This type of effort has taken place in the past with funding from CETA Title VI. It was very successful in those areas where it was tried. Senator Quayle did make some suggestions on this point, and we feel that quite a bit of accomplishment was possible. We hope that the new employment and training legislation contains such provisions. We must admit to some difficulty in keeping up with the amendments to that legislation.

We have long been disappointed with the efforts made under §2014. It appears that OPM recognizes the problems and is trying to improve the situation. We certainly hope this effort will continue.

The vast majority of the complaints we encounter under §2014 are directed at the Postal Service. Perhaps the wording in §2014(a) needs to be changed to specifically include the Postal Service and Postal Rate Commission.

The manner in which this statement is made implies that SESA does not do its job. As so often happens, we get so concerned with the failures that we tend to forget the many achievements of SESA. The majority of the staff do their job well. More often than not, the difficulty is with management. There was a recent case where a LVER was slated for an award. The office manager was so concerned with the idea that strangers would come into the office for the presentation and possibly speak to the other members of the staff, that he asked the LVER to refuse the award. This kind of supervision certainly is a matter for concern. We hear of somewhat similar situations with disturbing regularity.

This completes our statement and once again, we thank you, Mr. Chairman and the Members of the Committee for this opportunity.

Air Force Sergeants Association
International Headquarters, P.O. Box 31050, Temple Hills, MD 20748 • Phone: (301) 899-3500

August 3, 1982

The Honorable Alan K. Simpson
United States Senate
Washington, D. C. 20510

Dear Chairman Simpson:

Over the past two years, our association has been striving to obtain DoD support and Congressional approval of an "Educational Assistance Bill," that would enhance the acquisition and retention of the high quality young men and women needed for our smaller but certainly more technically sophisticated armed services.

Having failed to reach that educational goal, during our testimony before your distinguished committee and that of the House Armed Services Committee, we have requested Congressional approval of an extension of the current G. I. Education Program especially for those career enlisted personnel, who would have to leave the military services, to pursue their earned educational benefits. The loss of these highly qualified first line supervisors and technical specialists, will demand a greater outlay of funds to attract and fully train replacements. Even then, the many years of experience of the career noncommissioned officers will leave much to be desired toward mission requirements.

While cost factors must be taken into consideration in the passage of any legislation, its a foregone conclusion that the retention of fully trained, highly qualified and in the case of our noncommissioned officers, innovative enlisted personnel is far less costly than bringing an unknown quality on board and preparing them to fill key positions within the armed services.

Until such time as the Congress does enact legislation that will provide an incentive to serve in our armed services, by offering an opportunity for individuals to obtain a college degree, we fully support S. 2747 with a provision that will permit an individual 10 years after separation for completion of G. I. Educational Benefits.

Considering the fact that the armed services will be the agencies to enjoy the benefits of an extention of the current G. I. Bill beyond the December 1989 cut-off date, it is reasonable to look to the Department of Defense for inclusion of funding in its annual budget for such an educational program.

In closing, we would ask your approval for inclusion of our letter in the official record of hearings on S. 2747, Veterans Education and Employment Amendments of 1982.

With all good wishes, I remain,

Sincerely,

Don L. Harlow

DONALD L. HARLOW, CMSAF (RET.)
Executive Director

II

Calendar No. 808

97th CONGRESS
2d Session

S. 2913

[Report No. 97–550]

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

September 16 (legislative day, September 8), 1982

Mr. Simpson (for himself, Mr. Cranston, Mr. Thurmond, Mr. Stafford, Mr. Kasten, Mr. Denton, Mr. Murkowski, Mr. Randolph, Mr. Matsunaga, Mr. DeConcini, and Mr. Mitchell) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

September 17 (legislative day, September 8), 1982

Reported by Mr. Thurmond for Mr. Simpson, without amendment

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

PART A—RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out “$328” in subsection (e) and inserting in lieu thereof “$352”;

(6) by striking out “$413” in subsection (f) and inserting in lieu thereof “$443”;

(7) by striking out “$521” in subsection (g) and inserting in lieu thereof “$559”;

(8) by striking out “$604” in subsection (h) and inserting in lieu thereof “$648”;

(9) by striking out “$679” in subsection (i) and inserting in lieu thereof “$729”;

(10) by striking out “$1,130” in subsection (j) and inserting in lieu thereof “$1,213”;

(11) by striking out “$1,403” and “$1,966” in subsection (k) and inserting in lieu thereof “$1,506’ and “$2,111”, respectively;

(12) by striking out “$1,403” in subsection (l) and inserting in lieu thereof “$1,506”;

(13) by striking out “$1,547” in subsection (m) and inserting in lieu thereof “$1,661”;

(14) by striking out “$1,758” in subsection (n) and inserting in lieu thereof “$1,888”;

(15) by striking out “$1,966” each place it appears in subsections (o) and (p) and inserting in lieu thereof “$2,111”;

(16) by striking out “$844” and “$1,257” in subsection (r) and inserting in lieu thereof “$906' and “$1,350, respectively;

(17) by striking out “$1,264” in subsection (s) and inserting in lieu thereof “$1,357”; and

(18) by striking out “$244” in subsection (t) and inserting in lieu thereof “$262”.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:

“(A) has a spouse but no child, $74;

“(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

“(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;”;

(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$60";

(4) by striking out "$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$134"; and

(5) by striking out "$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Section 411(a) is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	$459	O-1	$563
E-3	$470	O-2	$582
E-4	$500	O-3	$622
E-5	$514	O-4	$658
E-6	$526	O-5	$726
E-7	$552	O-6	$817

E-8	$582	O-7	$884
E-9	[1] $608	O-8	$969
W-1	$563	O-9	$1,041
W-2	$586	O-10	[2] $1,139
W-3	$603		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

PART B—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION IMPROVEMENTS

INCREASE IN COMPENSATION RATE FOR CERTAIN BLINDED VETERANS

SEC. 110. Section 314(n) is amended by inserting "or has suffered total blindness without light perception in both eyes," after "anatomical loss of both eyes,".

ENTITLEMENT TO CERTAIN DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 111. Section 410(b)(1) is amended by inserting "or but for a clear and unmistakable error would have been" after "was" the first two places it appears.

PART C—SUPERSESSION OF CERTAIN PROVISIONS

SEC. 120. The provisions of this title shall supersede the provisions of section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253; 96 Stat. 803).

TITLE II—AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

VETERANS OUTREACH SERVICES PROGRAM

SEC. 201. Section 243 is amended to read as follows: "The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 202. Section 1508(g)(2) is amended—

(1) by inserting "not" after "shall"; and

(2) by striking out all after "felony" and inserting in lieu thereof a period.

CALCULATION OF LUMP-SUM PAYMENTS; USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 203. Section 1622 is amended—

(1) by striking out in subsection (d) "$75" and inserting in lieu thereof "$100"; and

(2) by adding at the end the following new subsection:

"(e) The administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purposes.".

REPEAL OF 1989 TERMINATION DATE

SEC. 204. (a) Section 1662 is amended by striking out subsection (e) in its entirety.

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 205. (a) Section 1673(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 206. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

(b) Section 1673(d) is amended by inserting "except to the extent provided for in section 1691(c) of this title" after "subchapter V" in the first sentence.

Section 1682 is amended—

(1) by amending subsection (a)(1) by striking out "or (c)" and inserting in lieu thereof "(c), or (g)";

(2) by amending subsection (e)—

(A) in the first sentence by inserting "(2)" after "subsection (b)"; and

(B) in the second sentence by striking out "at" and inserting in lieu thereof "in accordance with the rate at which training is pursued, but in no event at more than"; and

(3) by amending subsection (g)—

(A) by inserting at the end of paragraph (1) the following new sentence: "Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable to a veteran while so incarcerated for any course for which no tuition or fees are charged.";

(B) by amending paragraph (2)—

(i) by inserting "not" after "shall"; and

(ii) by striking out all after "felony" and inserting in lieu thereof a period.

(d) Section 1780(a) is amended—

(1) by striking out "1504" and inserting in lieu thereof "1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6) in its entirety.

(e) Section 1798(e)(3) is amended by striking out all after the first sentence.

AUTHORITY TO SUSPEND GI BILL BENEFITS IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection; any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days (or within such other reasonable period as the Administrator has determined is appropriate) and of the date on which the Administrator intends to take action under such subparagraph.".

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

SEC. 208. (a) Section 1662(a)(3) is amended—

(1) by striking out "may" in subparagraph (C)(i) and inserting in lieu thereof "shall" and by striking out "only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective" and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes," and

(2) by striking out "1983" in subparagraph (D) and inserting in lieu thereof "1984".

(b)(1) Not later than thirty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed thirty days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a) of this section.

(2) Not later than ninety days after the date of the enactment of this Act, the Administrator shall publish in the

Federal Register final regulations under such section 1662(a)(3)(C)(i) as so amended.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 209. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) Subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Subdivision (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

"(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection" after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection" after "misconduct";

(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence": and

(2) by inserting at the end the following new paragraph:

"(3)(A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

CONGRESSIONAL FINDINGS

SEC. 301. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans and veterans of the Vietnam era.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans' employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively

and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era," after "opportunities".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 303. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (a) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the staffs of the public employment service system and of each other program in the State described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—".

(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

SEC. 304. (a) Section 2003(a) is amended—

(1) in paragraphs (1) and (3), by striking out "available to" and inserting in lieu thereof "available for use in";

(2) in paragraph (2), by striking out "provided to" and inserting in lieu thereof "provided for use in"; and

(3) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting a comma and "except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does

not exceed 80 percent of such specialists stationed in all States" after "such State"; and

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in paragraph (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following new paragraph:

"(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.".

(d) Section 2003A is further amended—

(1) by striking out subsection (d) in its entirety;

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d) (as redesignated by clause (2) of this subsection) the following new sentence: "In administering the program pro-

vided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 305. (a) Section 2006(a) is amended—

(1) by inserting in the first sentence "and chapters 42 and 43 of this title" after "of this chapter";

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 306. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

SEC. 307. Section 2011(5) is amended to read as follows:

"(5) The terms 'department or agency' and 'department, agency, and instrumentality in the executive branch' each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

SEC. 308. (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within ninety days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 309. (a) Section 2025 is amended to read as follows:

"§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment.".

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 310. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE IV—MISCELLANEOUS IMPROVEMENTS

ASSIGNMENTS BY VETERANS ADMINISTRATION INSURANCE BENEFICIARIES

SEC. 401. (a) Section 718 is amended by inserting at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REMOVAL OF TIME RESTRICTION FOR FILING INSURANCE CLAIMS

SEC. 402. Section 770 is amended—

(1) by amending subsection (c) by striking out the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS OF WARTIME SERVICE

SEC. 403. Section 902 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of a pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

"(A) there is no next of kin or other person claiming the body of such deceased veteran;

"(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

"(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

"(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.".

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED HOME LOTS; CHANGE IN NOMENCLATURE

SEC. 404. (a) Section 1819(a) is amended—

(1) by striking out "one of the following purposes" and inserting in lieu thereof "the purpose or purposes specified in one of the following clauses";

(2) in paragraph (1), by inserting at the end the following new clause:

"(G)(i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.";

(3) in paragraph (2), by striking out "any of the purposes described in paragraph (1) of this subsection" and inserting in lieu thereof "a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph (1) of this subsection or for the purposes specified in clause (G) of such paragraph";

(4) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and

(5) by inserting at the end the following new paragraph:

"(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

"(ii) the amount of the loan may not exceed an amount equal to the sum of—

"(I) the purchase price of the lot,

"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

"(III) the balance of the loan being refinanced, and

"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

"(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

(b) Section 1803(c)(3) is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and

(3) by inserting at the end the following new clause:

"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.".

(c)(1) Section 1811 is amended—

(A) by striking out in subsection (c)(1) "mobile home" and inserting in lieu thereof "manufactured home"; and

(B) by striking out in subsection (d)(1) "mobile home" and inserting in lieu thereof "manufactured home".

(2) Section 1819 is further amended—

(A) by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home";

(B) by striking out "mobile homes" each place it appears and inserting in lieu thereof "manufactured homes";

(C) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(D) by amending the catchline to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The table of sections at the beginning of chapter 37 is amended by amending the item related to section 1819 to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF OVERPAYMENT WAIVER

SEC. 405. Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

MINIMUM SERVICE REQUIREMENT

SEC. 406. (a) Section 3103A is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) twenty-four months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

"(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.";

(2) in subsection (e) (as redesignated by clause (1) of this subsection) by inserting "(including a right to

special consideration, preference, priority, or similar advantage)" after "privilege"; and

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person is discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

SEC. 407. Section 977 of title 10, United States Code, is superseded.

CORRESPONDENCE TRAINING

SEC. 408. Notwithstanding any provision of law unless that law is enacted as an amendment to section 1786(a)(3) of title 38, United States Code, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of section 1786(a) of such title for the pursuit of a program of education exclusively by correspondence.

LIMITATIONS ON CONTRACTING OUT

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration shall—

(1) maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) provide such services through the most cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

"(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a)(5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

"(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

"(ii) such contract would not result in a reduction in the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at such facility.

"(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.".

TITLE V—EFFECTIVE DATES

SEC. 501. (a) Except as otherwise provided in subsections (b), (c), (d), (e), and (f) the provisions of this Act shall become effective on October 1, 1982.

(b) The provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of the enactment of this Act.

(c)(1) The provisions of section 111 shall take effect on October 1, 1982.

(2) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall make a payment to each person who would have been entitled to any payment under section 410(b) of title 38, United States Code, for any portion of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by section 111 had taken effect on October 1, 1978. Such payment shall be a lump-sum payment in the total amount such person would have been entitled to receive if such amendment had taken effect on October 1, 1978.

(d) The amendment made by section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

(e) The amendment made by section 405 shall take effect on the one hundred and eightieth day after the date of the enactment of this Act.

(f) Section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

APPENDIX B

Calendar No. 808

97th Congress
2d Session

SENATE

Report
No. 97-550

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2913

September 17 (legislative day, September 8), 1982.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1982

CONTENTS

Page
Text of the bill, S. 2913 1
Introduction 15
Summary of S. 2913 as reported 16

Discussion:

Title I: Compensation and dependency and indemnity compensation rate increases and program improvements:

Background 20
Committee bill provisions 26

Title II: Amendments of veterans' education and rehabilitation programs:

Veterans' outreach services program 37
Educational assistance for incarcerated veterans 37
Calculation of lump-sum payments 38
Use of post-Vietnam-era veterans' education account 39
Repeal of 1989 termination date 40
Repeal of the 50-percent rule 41
Clarification of the 85–15 rule 41
Charge to entitlement for independent study 42
Administrator's reports on educational loans 42
Authority to suspend GI bill benefits in certain cases 43
Clarification of targeted delimiting date extension 45
Tolling delimiting dates by reason of drug or alcohol conditions 73

Title III: Veterans' employment amendment:

Congressional findings and purpose 79
State and assistant State directors of Veterans' Employment Service .. 79
Disabled veterans' outreach program amendments 80
Applicability of chapter 42 programs 82
Reports of contractors on veterans' employment emphasis 82
Jurisdiction of Assistant Secretary of Labor for Veterans' Reemployment rights 84
Repeal of the exemplary rehabilitation certificates program 84

Title IV: Miscellaneous improvements:

Expansion of categories of persons to whom life insurance proceeds may be assigned 84
Removal of time restriction for filing insurance claims 86
Burial benefits for certain indigent veterans of wartime service 86
Guaranteed loans to refinance liens on manufactured homes and to purchase manufactured home lots; change in nomenclature 87
Period for request of overpayment waiver 88
Minimum active-duty service requirements for benefits eligibility 89
Correspondence training 97
Limitations on contracting out 99
Cost estimate 103
Regulator impact statement 107
Section-by-section analysis of S. 2913 as reported 110
Tabulations of votes cast in committee 130
Agency reports 131
Changes in existing law made by S. 2913 as reported 193
Table 1. Compensation-summary of requirements 21
Table 2. History of service-connected disability compensation increases, 1957 to present 23
Table 3. Comparison of compensation rates under present law and under S. 2913 as reported 27
Table 4. Additional compensation for dependents 29
Table 5. Comparison of monthly DIC rates under present law and S. 2913 as reported 29
Table 6. Additional payments 30

Calendar No. 808

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-550

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

SEPTEMBER 17 (legislative day, SEPTEMBER 8, 1982.—Ordered to be printed

Mr. THURMOND, (for Mr. SIMPSON), from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany S. 2913]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2913) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor; and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

TEXT OF THE BILL, S. 2913

The text of the bill as reported is as follows:

* * * * * * *

INTRODUCTION

On April 15, 1982, the Chairman of the Committee, Senator Simpson, introduced five measures at the request of the Administration. The first measure, S. 2378, would provide for an 8.1-percent increase in the rates of disability compnsation and dependency and indemnity compensation (DIC) and proposes amendments to title 38, United States Code, to achieve cost savings in compensation and pension programs. The second Administration-requested measures, S. 2380, would make adjustments and improvements in vocational rehabilitation and education programs administered by the VA. The third measure, S. 2381, would authorize the Administrator of the Veterans' Administration to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots. The fourth and fifth measures pertain to VA insurance programs. S. 2382 would remove the bar against payment of Servicemen's Group Life Insurance and Veterans' Group Life Insurance proceeds in the event the claim is filed late and would clarifly that such proceeds may not escheat to a State. S. 2388 would provide for an expansion of the class of beneficiaries to whom assignments of certain VA life insurance proceeds may be made.

Earlier, on February 2, 1982, Senator Alan Cranston, together with Senators Randolph, Matsunaga, DeConcini, and Mitchell, introduced S. 2048. This measure would restore eligibility for VA burial benefits in the case of certain veterans of war whose bodies are not claimed. Subsequently, Senators Humphrey, Moynihan, Melcher, Andrews, Pell, Heflin, Long, Hawkins, Huddleston, Heinz, and Pryor have cosponsored this measure.

On April 29, 1982, Senator Jennings Randolph introduced S. 2461. This measure would provide increased compensation awards to certain blinded veterans who are suffering from total blindness without light perception.

On June 30, 1982, Senator Simpson, joined by Senator Cranston, submitted Amendment No. 1909 to S. 2378. This amendment would provide for a more uniform minimum-service requirement for entitlement to certain benefits as a result of active-duty service.

On July 1, 1982, Senator Simpson, joined by Senator Cranston, introduced S. 2709, a bill that would correct an administrative error with respect to entitlement to DIC.

Senator Simpson, joined by Senator Cranston, introduced S. 2747 on July 16, 1982. This measure proposes to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administratrion and in the veterans' employment programs administered by the Department of Labor.

On July 18, 1982, Senator Cranston, joined by Senator Simpson, submitted Amendment No. 1984 to S. 2747 to specify Congressional intent with respect to implementation of the targeted GI Bill delimiting date extension and to provide expressly for tolling the period of time in which a veteran has to use certain vocational rehabilitation or education benefits when the veteran has been prevented from using such benefits by an alcohol or drug dependence or abuse condition.

A hearing was held by Senator Simpson on July 13, 1982, on S. 2378, Amendment No. 1909, and related measures pending before the Committee. Testimony was received from Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, accompanied by other representatives of the Veterans' Administration, and representatives of the The American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America, the Blinded Veterans Association, the National Association for Uniformed Services, and the International Chiropractors Association.

On July 28, 1982, Senator Simpson conducted a hearing on S. 2747 and Amendment No. 1984. Testimony was presented by Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, accompanied by other representatives of that agency; Lawrence Korb, Assistant Secretary of Defense for Manpower Reserve Affairs and Logistics; William Plowden, Assistant Secretary of Labor for Veterans' Employment; Neil Singer, Principal Analyst, National Security and International Affairs Division, Congressional Budget Office; and representatives of the Veterans of Foreign Wars, The American Legion, and the Disabled American Veterans.

After reviewing the testimony received at the July 13 and 28 hearings, the Committee met in open session on August 19, 1982, to consider the provisions of S. 2378, S. 2747, Amendment No. 1909, Amendment No. 1984, and related measures. The Committee voted unanimously to order reported an original measure, S. 2913, derived in part from the provisions of S. 2048, S. 2378, S. 2380, S. 2381, S. 2382, S. 2388, S. 2461, S. 2709, S. 2747, and Amendments Nos. 1909 and 1984.

SUMMARY OF S. 2913 AS REPORTED

S. 2913 as reported, (hereinafter referred to as the "Committee bill") has five titles: Compensation and dependency and indemnity compensation rate increases and program improvements; Amendments to veterans' education and rehabilitation programs; Veterans' employment amendments; miscellaneous improvements; and Effective dates, as follows:

TITLE I: COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION (DIC) RATE INCREASES AND PROGRAM IMPROVEMENTS

This title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective October 1, 1982, a 7.4 percent increase (the same increase provided to Social Security recipients and VA pension beneficiaries effective June 1, 1982) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the subsistence allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out their clothing, and

(4) the Dependency and Indemnity Compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

In addition, the Committee bill would realign the amounts of dependents' allowance paid to service-connected disabled veterans who are 30 percent or more disabled. Furthermore, the base rate of compensation payable to service-connected disabled veterans who are totally blinded without light perception would be elevated from (M) to (N). The final provision in title I would clarify Congressional intent that the existence of clear and unmistakable VA administrative error would be a basis for entitlement to DIC benefits when such administrative error is the only bar to entitlement otherwise.

TITLE II: AMENDMENTS TO VETERANS' EDUCATION AND REHABILITATION PROGRAMS

This title includes amendments to chapters 31, 32, 34, 35, and 36 of title 38, United States Code, which would:

1. Repeal the mandatory nature of the "vet rep" program and allow the VA Administrator to provide outreach services to veterans concerning their educational benefits through stationing VA employees in places such as schools.
2. Relax restrictions on vocational rehabilitation and education benefits in the cases of veterans who have been convicted of felonies and who are residing in halfway houses or participating in work-release programs.
3. Change the manner in which lump sum payments to a VEAP account are calculated.
4. Authorize the VA to receive funds from the Department of Defense for certain DoD-funded pilot programs and to deposit and disburse those funds through the existing VEAP account.

5. Repeal the 1989 termination date of the GI Bill and provide that DoD pays for educational benefits after December 31, 1989.

6. Relieve vocational schools from the requirement to compute and report on the number of graduates who have obtained employment in the career field during the preceding 2 years in order to establish that 50 percent have been so employed.

7. Clarify the rate at which entitlement use is charged for pursuit of independent study.

8. Provide that certain restrictions on payments of GI Bill and vocational rehabilitation benefits do not apply to veterans and eligible persons incarcerated by virtue of convictions of misdemeanors.

9. Remove a requirement that the VA report to Congress on the educational loan default rate on a school-by-school basis.

10. Grant the Administrator authority to suspend GI Bill benefits when a school exhibits a significant pattern of violations of reporting or approval requirements. Schools would receive 60 days notice and students would receive 30 days notice before the suspension is affected.

11. Clarify the intent of Congress with respect to the so-called "targeted delimiting date extension" of GI Bill education benefits for veterans who are educationally disadvantaged and for veterans who are unskilled and underemployed, state time limits for regulations to be promulgated, and extend until December 31, 1984, eligibility for this program.

12. Allow veterans who because of an alcoholism or drug dependence or abuse condition were prevented from using their full GI Bill or vocational rehabilitation benefits to use those benefits beyond their basic 10 year eligibility period during a period of up to 4 years providing their condition is controlled, has been treated by a program recognized by the VA Administrator, and they apply within certain time limits.

TITLE III: VETERANS' EMPLOYMENT AMENDMENTS

This title includes a freestanding provision and amendments to chapters 41, 42, and 43 of title 38, United States Code, and Public Law 90–83 which would:

1. State that the Congress is concerned about the high level of unemployment which exists among disabled and Vietnam-era veterans, and that veterans' employment is a national responsibility to be addressed by the Secretary of Labor through programs administered by the Assistant Secretary of Labor for Veterans' Employment (ASVE).

2. Require the ASVE to issue regulations promulgating the policies of these programs.

3. Specify that the State Directors for Veterans' Employment Service are to be assigned full-time Federal clerical support.

4. Provide authority to waive the two-year residency requirement for appointments to the positions of State Director or Assistant State Director of Employment if a candidate for a position has been Assistant State Director in another state for at

least one year, and only after no available, qualified candidate has been found among state residents.

5. Require State and Assistant State Directors for Veteran's Employment to coordinate programs specifically with VA programs which provide vocational rehabilitation and readjustment counseling (Vet Centers).

6. Clarify that funds available for DVOP services are provided for use in the States and not for use by the States.

7. Authorize waivers of the requirement that 25 percent of DVOP staff be outstationed within each state provided that at least 20 percent of all DVOP's nationwide be outstationed from state employment service offices.

8. State that the ASVE will monitor the appointment of DVOP's.

9. Describe the Secretary of Labor's responsibility for determining that the DVOP program has a sufficient level of funding.

10. Call for an annual report to Congress on the Disabled Veteran Outreach Program.

11. Specify that the U.S. Postal Service and the Postal Rate Commission are subject to the requirements of chapter 42 of title 38, including the requirements for mandatory listing and affirmative action by its contractors and for submission of affirmative action plans.

12. Require that federal contractors report at least annually to the Secretary of Labor on their hiring of veterans of the Vietnam-era and special disabled veterans.

13. Transfer to the ASVE the responsibility to assist veterans in reemployment in their former positions after the satisfactory completion of any period of active duty.

14. Repeal the Exemplary Rehabilitation Certificate Program.

TITLE IV: MISCELLANEOUS IMPROVEMENTS

This title includes amendments to chapters 19, 23, 36, 37, 53 and 81 which would:

1. Allow the VA to assign the proceeds of a life insurance policy to an expanded list of beneficiaries in cases where there has been a contested claim, but the parties wish to settle without the expense of legal action.

2. Remove the 4-year time restriction for filing certain life insurance claims and provide that sums payable will not escheat to a state.

3. Establish that the VA will pay the $300 burial benefit in the case of an indigent, wartime veteran or a veteran discharged or released from active duty for a service-connected disability whose body is not claimed when a state or locality would otherwise have to use its resources to pay the costs.

4. Give authority to the VA to guarantee loans to veterans to refinance liens on their mobile homes in order to finance the purchase of a mobile home lot.

5. Change the term "mobile home" to "manufactured home".

6. Reduce from 2 years to 180 days the length of time available to a veteran to seek relief from the recovery of benefit payments, overpayments, and interest thereon, but provide that this limit may be waived in certain circumstances.

7. Clarify that the 2-year minimum service requirements in section 3103A of title 38, United States Code, applies to all Federal programs with certain exceptions.

8. Provide that this bill will supersede any provision of law which would eliminate correspondence training under section 1786(a) of title 38 that is not enacted as an amendment to such title, as part of the reconciliation process under the Congressional Budget Act of 1974.

9. Affirm, with respect to OMB Circular A-76, the importance of an independent VA health-care system with quality health services provided in the most cost-effective manner possible, and prohibit contracting out unless (1) there would be no adverse impact on direct medical care and (2) savings of at least 10 percent would result; leave existing VA contract authority intact.

Discussion

TITLE I: COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

Part A—Rate Increases

Background

Disability compensation

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program ranks as the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10 to 100 percent. A totally disabled veteran is thus compensated at not less than the 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July, 1982 provided benefits for 2,276,061 veterans who had service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 22,135 World War I veterans; 1,144,889 World War II veterans; 231,952 Korean-conflict veterans; and 577,929 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1.—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

Total costs	Fiscal year 1981			Fiscal year 1982 (estimated)			Fiscal year 1983 (estimated)		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Compensation (total)	2,632,209	$53,227	$8,495,000	2,638,250	$3,618	$9,546,400	2,643,970	$3,581	$9,468,422
Veterans (total)	2,275,730	3,050	6,941,719	2,283,850	3,417	7,803,100	2,290,400	3,368	7,713,007
Spanish American War	2	15,000	30	2	15,000	30	2	15,000	30
Mexican Border period	5	9,200	46	4	10,250	41	4	10,250	41
World War I	27,344	3,649	99,766	23,400	4,060	95,004	19,600	3,990	78,212
World War II	1,179,507	2,880	3,396,636	1,157,721	3,223	3,731,390	1,137,399	3,175	3,611,484
Korean conflict	234,652	3,429	804,521	233,673	3,826	894,014	232,695	3,762	875,389
Vietnam era	560,987	3,116	1,748,185	572,050	3,499	2,001,388	578,200	3,446	1,992,192
Peacetime service	273,233	3,267	892,535	297,000	3,641	1,081,233	322,500	3,583	1,155,659
Survivors (total)	356,479	4,306	1,534,863	354,400	4,861	1,722,700	353,570	4,904	1,734,015
Civil War	5	3,000	15	4	4,250	17	4	4,250	17
Spanish American War	129	4,566	589	108	5,565	601	105	5,600	588
Mexican Border period	1	7,000	7	1	8,000	8	1	3,400	8
World War I	29,386	4,804	141,160	28,307	5,365	151,873	27,200	5,382	146,389
World War II	171,344	3,801	651,312	168,100	4,331	728,112	164,900	4,380	722,292
Korean conflict	39,208	4,148	162,654	39,180	4,678	183,298	39,160	4,702	184,119
Vietnam era	66,199	4,868	322,235	67,700	5,440	368,300	69,000	5,452	376,187
Peacetime service	50,207	5,117	256,891	51,000	5,696	290,491	53,200	5,722	304,415
Clothing allowance (total)	68,032	271	18,418	39,000	299	20,000	70,000	305	21,000

Source: Department of Veterans' Benefits, Veterans' Administration, July 1982.

History of cost-of-living increases

The Committe periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits kept pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85-168, Oct. 1, 1957, monthly rate	Public Law 87-645, Oct. 1, 1962		Public Law 89-311, Oct. 31, 1965		Public Law 90-493, Jan. 1, 1969		Public Law 91-376, July 1, 1970		Public Law 92-328, Aug. 1, 1972		Public Law 93-295, May 1, 1974	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	0.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	$32
(b)	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59
(c)	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89
(d)	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122
(e)	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171
(f)	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211
(g)	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250
(h)	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289
(i)	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325
(j)	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493	18	584
(k)												10	52
(l)	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727
(m)	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800
(n)	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909
(o)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862	18	1,017
(p)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017
(q)													
Subsec. (r) "aid and attendancc" nonhospitalization, Public Law 82-782, effective Oct. 1, 1958:													
(1)	150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437
(2)													
Subsec. (s) (housebound cases), Public Law 86-663, effective Sept. 1, 1960	265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654
(t)													

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 314, title 38, subsection—	Public Law 85-168, Oct. 1, 1957, monthly rate	Public Law 87-645, Oct. 1, 1962		Public Law 89-311, Oct. 31, 1965		Public Law 90-493, Jan. 1, 1969		Public Law 91-376, July 1, 1970		Public Law 92-328, Aug. 1, 1972		Public Law 93-295, May 1, 1974	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
Sec. 362 of title 38													

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 315, title 38, subsection—	Public Law 94-71, Aug. 1, 1975		Public Law 94-433, Oct. 1, 1976		Public Law 95-117, Oct. 1, 1977		Public Law 95-479, Oct. 1, 1978		Public Law 95-128, Oct. 1, 1979		Public Law 96-385, Oct. 1, 1980		Public Law 97-66, Oct. 1, 1981	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	9.4	$35	8.6	$38	6.6	$41	7.3	$44	9.9	$48	13.0	$54	8.0	$58
(b)	10.2	65	7.7	70	6.6	75	7.3	80	9.9	88	13.0	99	8.0	107
(c)	10.1	98	8.2	106	6.6	113	7.3	121	9.9	133	13.0	150	8.0	162
(d)	9.8	134	8.2	145	6.6	155	7.3	166	9.9	182	13.0	206	12.6	232
(e)	9.9	188	8.0	203	6.6	216	7.3	232	9.9	255	14.3	291	12.6	328
(f)	11.9	236	8.1	255	6.6	272	7.3	292	9.9	321	14.3	367	12.6	413
(g)	12.0	280	7.9	302	6.6	322	7.3	346	9.9	380	14.3	434	20.0	521
(h)	12.1	324	8.0	350	6.6	373	7.3	400	9.9	440	14.3	503	20.0	604
(i)	12.0	364	8.0	393	6.6	419	7.3	450	9.9	495	14.3	566	20.0	679
(j)	12.2	655	7.9	707	6.6	754	7.3	809	9.9	889	14.3	1,016	11.2	1,130
(k)	0	52	8.0	879	6.6	56	0	56	0	[2]56	0	62	0	62
(l)	12.0	814	8.0	879	6.6	937	7.3	1,005	9.9	1,104	14.3	1,262	11.2	1,403
(m)	12.0	896	8.0	968	6.6	1,032	7.3	1,107	9.9	1,217	14.3	1,391	11.2	1,547
(n)	12.0	1,018	8.0	1,099	6.6	1,172	7.3	1,258	9.9	1,383	14.3	1,581	11.2	1,758
(o)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966
(p)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966
(q)													0	67

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued—Continued

Sec. 315, title 38, subsection—	Public Law 94–71, Aug. 1, 1975		Public Law 94–433, Oct. 1, 1976		Public Law 95–117, Oct. 1, 1977		Public Law 95–479, Oct. 1, 1978		Public Law 95–128, Oct. 1, 1979		Public Law 96–385, Oct. 1, 1980		Public Law 97–66, Oct 1, 1981	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958:														
(1)	11.9	489	0	528	6.6	563	7.3	604	9.9	664	14.3	759	11.2	844
(2)							([1])	900		989	14.3	1,130	11.2	1,257
Subsec. (s) (housebound cases), Public Law 86–663, effective Sept. 1, 1960)	11.9	732	7.7	791	6.6	843	7.3	905	9.9	995	14.3	1,137	11.2	1,264
(1)							([1])	175		192	14.3	219	11.2	244
Sec. 362 of title 38			8.6	190	6.6	203	7.3	218	9.9	240	14.3	274	11.2	305

[1] From Oct. 1978.

[2] (k) $62 effective Sept. 1, 1980 (9.9 percent increase).

Source: Department of Veterans' Benefits, Veterans' Administration, July 1982.

Dependency and indemnity compensation (DIC)

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84-881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occuring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

DIC benefits are currently paid to or for 316,443 surviving spouses and children.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

Committee Bill Provisions

The Committee bill provides for a 7.4 percent cost-of-living increase, effective October 1, 1982, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase is the same percentage increase provided to social security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95-588. In calculating this increase the Committee—as contemplated in section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253)—rounded to the next lower dollar all amounts of $0.99 or less.

The Committee's rationale for establishing these rate increases at this level is set forth at pages 11 through 14 of the Committee's budget views and estimates report for fiscal year 1983, which was submitted to the Senate Budget Committee on March 8, 1982 (Committee Print No. 12).

Disability compensation increases

The 7.4-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rates specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30 percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the July 1982 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2913 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(a)	(10)	$58	$62	887,670
(b)	(20)	107	114	358,124
(c)	(30)	162	173	317,325
(d)	(40)	232	249	186,902
(e)	(50)	328	352	114,382
(f)	(60)	413	443	122,398
(g)	(70)	521	559	75,166
(h)	(80)	604	648	38,606
(i)	(90)	679	729	14,148
(j)	(100)	1,130	1,213	134,666

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(k)(1)	Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss.	62	62	85,462
(2)	Maximum limit for veterans receiving payments under (a) to (j), above.	1,403	1,506	
(3)	Maximum limit for veterans receiving payments under (l) to (n), below.	1,966	2,111	

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES—Continued

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1,403	1,506	8,539
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1,547	1,661	5,232
(n)	Anatomical loss of 2 extemities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1,758	1,888	769
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considerd twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	1,966	2,111	131
(p)(1)	For blindness of both eyes together with bilateal deafness rates at 40 percent or more disabling of total deafness of 1 ear, next higher rate or intermediate rate, respectively is payable—but compensation may not exceed.	1,966	2,111	1,873
(2)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	1,966	2,111	
(q)	[This subsection repealed by Public Law 90-493]			
(r)(1)	If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate.	844	906	
(2)	If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	1,257	1,305	8,802
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently househound.	1,264	1,357	6,879
(t)	If veteran entitled to compensation under (a) through (i), above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	244	262	58

Source: Section 314 of title 38, United States Code, July 1982.

Dependents' allowances increases

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 7.4 percent. Such dependents' allowances are prorated according to the percentage of disability. In 1981, the number of dependents for whom veterans received additional compensation exceed 1,190,000.

The Committee bill would also realign dependents' allowances payable under section 315 of title 38. Current law contains certain arbitrary differences in amounts paid for various categories of dependents' allowance amounts. For example, under current law a totally disabled, married veteran receives a $47 payment for the first child, $37 for the second, $39 for the third, and $38 for each additional child. A veteran with no spouse receives $47 for the first child, $39 for the second, $37 for the third, and $38 for each additional child. These inconsistencies in the amounts payable for children would be corrected by the Committee bill realignment allowing $74 per month for a spouse, $50 per month for a first child, and $40 per month for each additional child.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$69	$74
Spouse and child	116	124
No spouse, 1 child	47	50
Each additional child	38	40
Each dependent parent	56	60
Each child age 18 to 22 attending school	105	112
Spouse in nursing home or severely disabled	125	134

Source: Section 315 of title 38, United States Code, July 1982.

Dependency and indemnity compensation increases

The Committee bill would also provide for a cost-of-living increase of 7.4 percent in DIC rates for surviving spouses and children, the same rate of increase provided service-connected disabled veterans in the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or housebound, helpless children age 18, or over, and children between the ages of 17 and 23 attending school would also be increased by 7.4 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2913 AS REPORTED

Base monthly rates to surviving spouses	From—	To—	Base monthly rates to surviving spouses	From—	To—
Veterans' pay grade:					
E-1	$415	$445	W-4	$595	$639
E-2	428	459	0-1	525	563
E-3	438	470	0-2	542	582
E-4	466	500	0-3	580	622
E-5	479	514	0-4	613	658
E-6	490	526	0-5	676	726
E-7	514	552	0-6	761	817
E-8	542	582	0-7	824	884
E-9	567	603	0-8	903	969
W-1	525	563	0-9	970	1,041
W-2	546	586	0-10	1,061	1,139
W-3	562	603			

Source: Section 411 of title 38, United States Code, July 1982.

TABLE 6.—ADDITIONAL PAYMENTS

	From—	To—
Surviving spouse, addition for each child	$48	$51
Addition if surviving spouse in need of regular aid and attendance	125	134
Surviving child (where no surviving spouse is entitled)	210	225
2 such children [1]	301	323
3 such children	389	417
More than 3 children, addition for each additional child	79	84
Addition if such child is helpless	125	134
Helpless child, where surviving spouse is also entitled	210	225
Child attending school, where surviving spouse is also entitled	107	114

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Source: Sections 411, 413, 414 of title 38, United States Code, July 1982.

The 7.4-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

Part B—Compensation and Dependency and Indemnity Compensation Improvements

Increased Compensation to Certain Severely Disabled Veterans

The Committee bill would increase the rate of compensation payable to service-connected disabled veterans who are totally blind without light perception.

Through a very complex rating schedule the Veterans' Administration attempts to compensate veterans adequately for their service-connected disabilities. Section 314 of title 38 provides the rate of disability compensation based on the degree to which a veteran is disabled and awards additional monthly payments for certain specified severe disabilities.

Under current law and regulations, veterans who suffer from service-connected total blindness, regardless of whether there is light perception, are compensated under section 314(m) of title 38. The Committee believes that the absence of light perception results in a special problem of orientation that is more disabling and that this should be reflected in an increased rate of compensation.

Thus the committee bill would raise service-connected totally-blinded veterans without light perception to the rate specified under section 314(n) of title 38. Compensation for these veterans would then be on a par with compensation for veterans who have suffered the anatomical loss of both eyes, a condition known as optical enucleation.

Entitlement to Certain Dependency and Indemnity Compensation

Chapter 13 of title 38 provides eligibility for DIC to surviving spouses, children, and needy parents of veterans whose deaths are determined by the VA to be service connected. By virtue of a provision enacted in 1978 (section 204 of Public Law 95-479), eligibility for survivors' benefits at DIC rates was extended to the survivors of certain veterans whose disabilities had been continuously rated totally disabling for a period of 10 years (or for a period of 5 years from the date of the veteran's discharge or release from service). As enacted by Public Law 95–479, section 410(b)(1) of title 38 provides that DIC equivalent benefits may be paid to certain survivors of veterans who have been "in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death" for such disabilities.

On March 24, 1981, the General Counsel of the Veterans' Administration issued an opinion (Op. G.C. 2–81 (holding that eligibility for survivors' benefits under section 410(b)(1) exists only when the veteran was actually receiving compensation for total disability for the requisite period of time or would have been receiving such compensation but for the receipt of retirement or retired pay—without regard to whether the non-receipt of compensation for any part of that period is attributable to VA error. The General Counsel's opinion follows:

32

GENERAL COUNSEL'S OPINION, VETERANS ADMINISTRATION-Op. G.C. 2-81

March 24, 1981 (Opinion date)
May 21, 1981 (Publication date)

SUBJECT: Interpretation of 38 U.S.C. § 410(b)(1)(1976)

QUESTION PRESENTED: Was 38 U.S.C. § 410(b)(1)(1976) intended to create entitlement to survivors' benefits when a veteran was in receipt of compensation for total disability at death, but the total disability rating was not actually in effect for ten years because of Veterans Administration error?

COMMENTS: To illustrate the problem, the following fact pattern is offered:

> A veteran, at death, had been in receipt of compensation for total disability. Assume that death occurred in 1980, and the total disability rating had been assigned with an effective date in 1978. After the veteran's death, the Veterans Administration determines that the correct "effective date" for the total rating should have been in 1969, under the effective date rules specified in 38 U.S.C. § 3010 (1976).

Should the Veterans Administration consider such a veteran to have been "in receipt of . . . compensation at the time of death for a service-connected disability that . . . was continuously rated totally disabling for a period of ten or more years immediately preceding death," under 38 U.S.C. § 410(b)(1)?

Such a veteran would have been neither actually assigned a total rating continuously for the requisite number of years, nor in receipt of compensation at that rate long enough for his survivors to qualify. We have concluded that it would frustrate the congressional intendment were chapter 13 survivors' benefits granted in such cases.

No agency precedents addressing this question have been located. Therefore, in order to come to a reasonable interpretation of section 410 (b)(1), a brief examination of relevant legislative history is necessary. Prior to 1978, payment of DIC benefits was restricted to the survivors of those servicemembers who died on active duty or veterans who died post-service as a result of "service-connected" disabilities. However, it was brought to Congress' attention by the Blinded Veterans Association and other veterans' groups that certain service-connected disabilities, such as blindness, warrant a disability rating of 100% but are rarely found as contributing to the cause of death. Accordingly, under the prior law, DIC benefits were generally not available to survivors of these totally disabled veterans. Increased Rates of Compensation: Hearings Before the Subcommittee on Compensation, Pension and Insurance of the House Committee on Veterans' Affairs, 95th Cong., 2d Sess. 23 (1978) (statement of William W. Thompson).

The Blinded Veterans Association's concern produced a sympathetic reaction in Congress. As a result, section 204 of the Veterans' Disability Compensation and Survivors' Benefits Act of 1978 (Pub. L. No. 95-479, 92 Stat. 1564), which added the current 38 U.S.C. §410(b), came into being.

Section 204 and several other items in Pub. L. No. 95-479 were compromise provisions necessitated when the House and Senate passed markedly different versions of H.R. 11886, 95th Congress. *See* Joint Explanatory Statement on H.R. 11886, 124 Cong. Rec. 16896 *et seq.* (1978), *reprinted in* [1978] U.S. Code Cong. & Ad. News 3530 *et seq.* As originally passed by the House on June 28, 1978, H.R. 11886 did not contain anything similar to section 204, but the House did pass H.R. 11890 on July 25, 1978, which embodied a very similar proposal. H.R. 11890 would have provided dependency and indemnity compensation benefits to the survivors of veterans who were rated permanently and totally disabled from service-connected causes for a period of at least ten years (or continuously since service) and died of natural causes. *See, e.g.*, H.R. Rep. No. 1230, 95th Cong., 2d Sess. 2 (1978). While H.R. 11890 did not come to a vote in the Senate, the August 7, 1978 Senate-passed version of H.R. 11886 (as amended to substitute the language of S. 2828 as reported by the Senate Committee on Veterans' Affairs) contained a somewhat similar provision. 124 Cong. Rec. 4831 *et seq.* (1978). The legislative intent becomes clear from a reading of the House Committee on Veterans' Affairs' report on H.R. 11890, and the Senate Committee on Veterans' Affairs' report on S. 2828.

The House Committee considered H.R. 11890 to have sufficient safeguards to protect against reducing the DIC program to just another form of survivors' pension. One of the safeguards was the provision requiring the veteran to have suffered total service-connected disability for ten years or since discharge. It also required the veteran's widow to have experienced with him a good part of that loss by specifying that the marriage must have existed for at least five years. H.R. Rep. No. 1230, 95th Cong., 2d Sess. 2 (1978).

The Senate Committee on Veterans' Affairs, in its report, acknowledged many of the same concerns. S. Rep. No. 1054, 95th Cong., 2d Sess. 30 (1978). In addition, the Senate Committee expressed concern that a significant percentage (12% to 25%) of DIC claims involving survivors of veterans rated totally disabled at death were denied because the deaths were not found to be service connected. It was the Committee's view that the appropriate federal obligation to the survivors should be replacement of the support lost when the veteran dies. S. Rep. No. 95-1054, 95th Cong., 2d Sess. 28 (1978), *reprinted in* [1978] U.S. Code Cong. & Ad. News 3465, 3486. Specifically, the Committee expressed its concern over situations like the following:

> Assume that a veteran who is totally blind from service-connected causes dies at the age of 55 from a heart attack, having been so disabled from the age of 22—a period of 33 years. During that period, his wife and he depended upon his disability compensation for income support, but, because his death is not service connected, she would not receive DIC.

The two Committees' reports document that one of the primary considerations in the enactment of the current 38 U.S.C. § 410(b) was Congress' recognition of the financial dependence of the survivors of deceased totally disabled veterans on the disability compensation available during the veterans' lifetimes. However, this situation is less and less plausible as the intervening time between a veteran's rating of total disability and his ensuing death is shorter than the ten-year criterion, and Congress considered a time limit to be necessary. Hearing on Pub. L. No. 95-479 before the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs of the House Committee on Veterans' Affairs, 96th Cong., 1st Sess. 19 (1979) (statement of Honorable G.V. (Sonny) Montgomery). The shorter the period of time between a rating of total disability and the veteran's death, the less dependent the survivors should be expected to be on the disability income.

Section 410(b)(1) reads:

> (b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, *if the veteran was in receipt of* (or but for the receipt of retired or retirement pay was entitled to receive) *compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death*, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected. (Emphasis added.)

Any ambiguity which a reader sees when separate phrases within the section are examined out of context is cured when the words are read together as a whole. An instrument must always be construed as a whole, and the particular meaning to be attached to any word or phrase is to be ascribed from the framers' purpose. *Philbrook v. Glodgett*, 421 U.S. 707 (1975); *see generally Sutherland, Statutory Construction* §§ 46.05, 47.02, 4th Ed. (1975), and 1980 Supp. Here the plain meaning of the words is apparent: the ten-year criterion is set, without an exception. Provision could have been made to cover cases in which *entitlement* to receive compensation for total disability were the touchstone (*see, e.g.*, 38 U.S.C. § 541(a)), but Congress instead chose the "in receipt of" language. This is presumed to have been a reasoned choice. We note in this regard that, as passed by the House, H.R. 11890 provided that entitlement would arise when a veteran "was in receipt of *or entitled to receive*" compensation at the total disability rate for the requisite duration The eschewal of the "or entitled" language in the compromise agreement must be presumed a considered choice. Where there is support, as here, in the recorded expressions of legislative intent, we find no compelling reason to depart from the plain meaning of the statute. We conclude that section 410(b)(1) does not provide a basis for finding entitlement in the case you have posited.

We have determined as a matter of law that the statutory provision does not afford relief, but further submit that the policy considerations do not demand otherwise when the equities are examined. Your opinion request contemplates a situation in which the Board determines, belatedly (posthumously), that a veteran's disability rating was for a time erroneously low. Prior rating decisions that have become final because of failure to timely appeal can be retroactively amended only on the basis of "clear and unmistakeable error," i.e., not merely upon valid differences in the exercise of rating judgment. 38 C.F.R. § 3.105(a). There are, of course, available remedies when a veteran believes an assigned disability rating is arbitrarily low. The regional office can be petitioned for a reconsideration, or an appeal to the Board may be taken. A request for reconsideration of an adverse Board decision may be filed. If there has been "clear and unmistakeable" error in assigning the disability rating, it is very unlikely that it would go unremedied should a veteran exhaust all avenues of redress. (Or, it is at least unlikely that any true error the Board would discover *post-mortem* would not have been recognized by the Board *en vie*.)

Finally, we distinguish those agency precedents in which "constructive" receipt of disability compensation has been found in order to create eligibility for death benefits. In 69 Op. Sol. 228 (July 28, 1943), at issue was whether a veteran should be considered to have been at death "in receipt of pension [compensation] for service-connected disability" for purposes of burial benefits under Paragraph II of Veterans' Regulation Numbered 9(a), as amended by Pub. L. No. 76-866 (54 Stat. 1193, October 17, 1940). There, between the date of an original decision in May 1942 denying service connection and a reversal in July of that year by the Central Disability Board, the veteran died. Because accrued benefits were payable, the Solicitor determined that constructive receipt at death could be acknowledged. There, it is clear that entitlement to receive benefits existed, and that actual receipt at death was debarred only by the veteran's untimely death (not because of any remission in the pursuit of procedural remedies). Subsequent opinions issued by this office, e.g. in an unpublished memorandum forwarded to the Chief Benefits Director November 12, 1964, are similarly distinguishable because of the fact situations considered.

Because there is an adequate administrative remedy "at law" for curing erroneous disability ratings, we also volunteer the opinion that such cases as posed in your memorandum are not appropriate subjects for administrative relief. A painstaking review of all equitable relief decisions under 38 U.S.C. § 210(c)(2) has divulged none in which relief has been grounded in an erroneous VA rating decision. Such relief should be reserved for those situations in which no remedy exists at law. Were all rating decisions subject to reveiw under section 210(c)(2), a tremendous (and we would argue unintended) workload could arise. More important, as in the instant case the only appropriate remedy would be the creation of a running compensation (here, chapter 13) award in contravention of a statute as interpreted by VA. We have serious reservations as to the Administrator's authority to create entitlement to a survivors' compensation award under section 410(b)(1) when Congress has provided a means by which the underlying eligibility defect may be appealed and cured.

HELD: As a matter of law, 38 U.S.C. § 410(b)(1)(1976) does not provide a basis for finding entitlement to survivors' benefits where a veteran, at death, had been in receipt of compensation for total disability but not for the requisite duration solely because of VA error in the rating assigned.

NOTE: This opinion was released in the form of a memorandum to the Chairman, Board of Veterans Appeals on March 24, 1981.

Robert E. Coy

ROBERT E. COY
Acting General Counsel

The Committee is concerned about this interpretation and about a recent decision of the Board of Veterans' Appeals in which benefits were denied to a survivor of a veteran who, at the time of death, had been in receipt of benefits for a total disability for 9 years and 361 days, despite the fact that there was a clear and unmistakable error in the veteran's rating decision that would have established an earlier effective date for a period of total disability in excess of 10 years. The Committee believes that the section 410(b) benefit should be granted in such cases.

Thus, the Committee bill would amend section 410(b)(1) to provide that the existence of a clear and unmistakable error should not defeat entitlement to the survivors' benefits. Under the amendment, a veteran would not need actually to have been "in receipt" of total disability benefits for the requisite period of time in order to provide eligibility to the survivors if a clear and unmistakable error had been made that resulted in a shorter period of receipt than should have been provided.

The provisions of the Committee bill would provide for retroactive application of the amendment to section 410(b)(1) by requiring the VA to make a lump-sum payment to those survivors who would have been eligible under the new criteria if the amendment had been in effect on October 1, 1978—the effective date of section 410(b)(1). The amount of that payment would be equal to the total amount of the survivors' benefit that would have been paid to the survivor prior to October 1, 1982—the effective date of the amendment—if the amendment had taken effect on October 1, 1978. The Committee considers this a fair approach enabling the survivors affected to be restored to approximately the same position that they would have been in if section 410(b)(1) had been enacted with provision for the correction of clear errors.

Part C—Supersession of Certain Provisions

Background

In order to satisfy the reconciliation requirements imposed under section 2(b)(7) of S. Con. Res. 92, the First Concurrent Resolution on the Budget for Fiscal Year 1983, the Committee reported a resolution to the Budget Committee for inclusion as Title VII of S. 2774, the Omnibus Reconciliation Act of 1982 (S. Rept. No. 97-504, pages 242 to 284). One provision of that resolution, reported as section 705, provided for a $1 reduction in the current law rates payable for various categories of disability compensation and DIC recipients, based on the expectation that at some time prior to the January 1, 1983, effective date of such reductions, legislation would be enacted providing for a 7.4 percent cost-of-living increase with certain minor adjustments, that such legislation would supersede the companion provisions of the Reconciliation Act, and that the cost impact of both such legislative alternatives would be substantially identical, i.e., a savings, in both budget authority and outlays, of $29.5 million in fiscal year 1983, $29.6 million in fiscal year 1984, and $29.8 million in fiscal year 1985. Subsequently, House and Senate conferees on the Reconciliation Act (H.R. 6955) approved, for inclusion as section 405 of that Act, a provision similar to the

Senate provision expressly in contemplation of the enactment of legislation providing for a 7.45 percent cost-of-living increase—with all amounts of $0.99 or less resulting from the addition of such increase to be rounded to the next lower dollar and with certain categories of dependents' allowances realigned—and expressly with the intent that section 405 of the reconciliation measure be superseded thereby.

The Committee bill would effectuate this intent, by providing that the adjusted cost-of-living increases provided under Part A of title I of the Committee bill would supersede the adjustments to the current law rates for disability compensation and DIC which were made in the Omnibus Reconciliation Act of 1982, Public Law 97-253.

The Committee's purpose is to complete the process by which it has chosen to satisfy its reconciliation requirements. The reasons for having undertaken this process were set forth at page 247 of Senate Report 97-504 accompanying S. 2774, as follows:

> The Committee notes, however, that a mere promise to make the above described changes in the 1983 compensation bill, regardless of the practical likelihood of the enactment of the bill, may not be legally sufficient to satisfy this Committee's reconciliation requirements, since the realization of the projected savings would be contingent upon actual enactment of the compensation bill. Therefore, in order to ensure full compliance with the requirements of reconciliation, the Committee proposes to change existing law in such a way as to reflect fiscal year 1983 savings in an amount (prorated over the entirety of fiscal year 1982 to account for the potential January 1, 1983, effective date of this section) equivalent to the projected savings resulting from the measures described above, so that in the event a compensation act is not enacted for fiscal year 1983, the savings associated with this section will nevertheless be realized. However, the Committee stresses that it fully intends that a compensation act shall be enacted for fiscal year 1983 providing for a 7.4 percent cost-of-living increase adjusted as described above, so that savings would result not from actual reductions in the rates of compensation provided under current law, but from various minor adjustments to the amount of the projected increase in those rates. The Committee intends that the minor reductions provided for in this section shall be superseded by such compensation act containing the above modifications, and expects enactment of that bill, with its October 1, 1982, effective date, to occur well before January 1, 1983, effective date of this section. CBO estimates that cost savings under both alternatives will be substantially identical.

TITLE II: AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

In title II of the Committee bill, changes are proposed which would improve several education and vocational rehabilitation programs.

Veterans' Outreach Services Program

The Veterans' Outreach Services Program, now codified in subchapter IV of chapter 3 of title 38, United States Code, was established by the Congress in Public Law 93-508 in 1974. Current law requires in section 243 that the Administrator assign to each educational institution where at least 500 persons are enrolled under chapters 31, 34, 35, and 36 of title 38 such number of full-time veterans' representatives as will provide at least one such veterans' representative ("vet rep") per each 500 students enrolled at each such institution. When enacted, the purpose of this program was to assist the large number of veterans pursuing educational programs become aware of their benefits and to process their forms expeditiously.

Committee bill provisions

In 1974, there were more than 2 million individuals training under the GI Bill. Since that time, the number of GI Bill trainees had declined significantly; in fiscal year 1983, only slightly more than 800,000 are expected to train with VA assistance. Therefore, "vet reps" are no longer assigned to educational institutions. Thus the Committee bill would remove the mandatory requirement for veterans' representatives in section 243 of title 38, United States Code, in light of declining numbers of veterans enrolled in chapters 31, 34, 35, and 36 educational programs. Instead, the provision in this bill would allow the VA Administrator to assign VA employees to educational institutions or other appropriate locations as necessary to provide assistance to veterans and others in connection with the provision of benefits and to provide outreach services. These assignments could be on a part-time or full-time basis, as the Administrator deems appropriate.

EDUCATION ASSISTANCE FOR INCARCERATED VETERANS

In 1980, provisions of Public Law 96-466 were enacted for the purpose of prohibiting the payment of VA educational benefits to incarcerated veterans whose needs for educational assistance were being met by other means and where the receipt of direct payments not needed to meet the costs of training was causing disciplinary problems in correctional institutions. That law imposed several restrictions on the payment of subsistence benefits to veterans and eligible dependents who are incarcerated in Federal, State or local prisons.

Likewise, the monthly benefit paid to a veteran or dependent pursuing program of education under chapter 34 or 35 is limited to the amount that the Administrator determines is necessary to cover the established charges for tuition and fees charged to nonveterans and the cost of necessary books and supplies. Current law further provides that these restrictions only apply in the case of an individual so incarcerated who is residing in a halfway house, or participating in a work-release program, if the Administrator determines that 100 percent of the individual's living expenses are being paid by a Federal, State or local government. However, if the costs are less than completely defrayed by a Federal, State of local government, the VA may pay the full, normal education benefit or subsistence benefits due a non-incarcerated veteran or dependent.

In addition, chapter 36 provides that, regardless of whether an incarcerated veteran or eligible person has been convicted of a felony or a misdeameanor, benefits may not be paid for any course for which there are no tuition of fees or to the extent that tuition and fees are paid under another Federal program. In the case of a veteran incarcerated for the conviction of a felony who is pursuing a program of vocational rehabilitation under chapter 31, the veteran can be paid for educational expenses, but does not receive any subsistence allowance.

The Committee is concerned by the administrative difficulty and costly procedures that the VA has advised have resulted from these provisions. Thus the Committee bill would ease the restrictions placed on the payment of educational assistance or subsistence benefits to incarcerated veterans or eligible dependents by Public Law 96-466 and facilitate administration of the benefits. First, the Committee bill would eliminate the restrictions for veterans or eligible dependents residing in halfway houses or participating in work-release programs. This would relieve the VA of the need to make costly administrative determinations in individual cases and would provide the individual with support during the crucial readjustment process. It would not significantly increase costs for the VA in terms of benefit payments because in most cases, a Federal, State or local government is not defraying 100 percent of an incarcerated individual's living expenses, so the VA is already making the subsistence payments.

In addition, the Committee bill would repeal the restrictions applicable to veterans and eligible dependents incarcerated for either misdemeanors or felonies under which VA educational assistance is not payable to the extent tuition and fees are paid by an agency other than the VA and where no tuition and fees are involved. The administrative burden for the VA of applying those provisions has been prohibitively expensive and impractical. In addition, misdemeanors usually involve sentences too brief for the VA to be able to track them. There is no official source of notice to the VA in many cases, and if there is notice, benefit payments often have to be adjusted for incarceration of only a few days' duration—a process that is extremely costly.

Calculation of Lump-Sum Payments

Background

In 1976, Public Law 94-502 created a new, contributory program of educational assistance designed to meet the needs of the All-Volunteer Armed Forces. This program, established under chapter 32 of title 38, entitled Post-Vietnam Era Veterans' Educational Assistance Program (VEAP), is a voluntary program in which, generally, persons entering on active duty after December 31, 1976, may make contributions in the form of monthly payroll deductions up to a total maximum of $2,700 in contributions to their educational funds. Their contributions are then matched on a $2 for $1 basis by the Department of Defense when the veteran enrolls in an approved program of education. The amount of the monthly benefit payment is determined by adding all the contributions made to the fund by the veteran, multiplying by 3, adding any supplemental or kicker payments made by the Department of Defense, and dividing by the number of months in which the veteran made contributions.

In 1980, Public Law 96-466, provided for lump-sum contributions to be made to the fund. Such contributions to the fund can be made in lieu of or in addition to a monthly deduction. For purposes of payment of VEAP benefits after separation from service, the contributions are considered to have been made by monthly deductions from a participant's military pay in the amount of $75 per month, or in such lessor amounts as have been specified. In addition, the originally-enacted minimum and maximum contributions were modified from $50 and $75, respectively, to $25 and $100, respectively.

As a result of these changes, a problem is encountered in the terms of the amount of monthly VEAP benefits that are paid by the VA. In the case of an individual who makes 27 monthly contributions of $100 each, benefits are payable at the rate of $300 a month (or $2,700 times 3 divided by 27). On the other hand, an individual who makes one lump-sum payment of $2,700 is paid benefits at the rate of $225 monthly (or $2,700 times 3 divided by 36—36 being $2,700 divided by $75).

In order to correct this inequitable difference in the amount of monthly benefits, the Committee bill would provide that lump-sum contributions would be considered to have been made in amounts of $100 monthly rather than $75, thus conforming this calculation to the modifications made in Public Law 96-466.

Use of Post-Vietnam Era Veterans' Education Account

Public Law 96-342, The Department of Defense Authorization Act of 1981, established a series of educational incentive pilot programs, including the so-called "901" program, for certain service personnel who enlisted or reenlisted in the military service between October 1, 1980, and October 1, 1981. The purpose of these programs was to test the effects on enlistment and reenlistment of certain benefits greater than those available under VEAP. The funds for the benefits were contributed by DOD, to be disbursed by the VA.

The Committee bill would authorize the VA to deposit funds for the "901" program into the VEAP account for the purpose of disbursing payments to eligible individuals beginning in December 1982. The funds would be kept separate, but the automated system would be shared so that the VA would avoid the costly manual operation of a payment system for the "901" program.

Repeal of 1989 Termination Date

Under the current Vietnam-era GI Bill, no chapter 34 educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 94-502, was designed to permit those who entered the service prior to December 31, 1976—the general termination date for entry into the service for eligibility to current GI Bill benefits—to complete their initial enlistments and then have a 10-year period in which to use their GI Bill benefits.

The Committee is concerned by reports form persons now on active duty with eligibility for the GI Bill suggesting that they will leave the service in order to utilize their GI Bill benefits prior to the 1989 termination date. According to testimony presented by the Department of Defense, there are presently over 800,000 servicemembers on active duty who entered the service prior to 1977 and who thus have eligibility for the current chapter 34 GI Bill. Although many of these will reach retirement or separate prior to the 1989 termination date and will have an opportunity to use their GI Bill benefits, the Department of Defense estimates that 37,000 are expected to still be in the service in 1990. If these individuals were to leave the service in order to use their benefits, the cost to recruit and train replacements for members who leave prematurely is quite high. In addition, the replacement of senior personnel with more junior personnel reduces the effectiveness and readiness of the Armed Forces.

According to testimony presented by the Department of Defense, all the military departments believe that if the 1989 termination date is not extended, some servicemembers will elect to separate earlier than desired in order to use their earned benefits. The Department advises that while it is unable to document this assertion precisely, many servicemembers have expressed their concern about the delimiting date. Survey evidence indicates that 41 percent of third term personnel leaving the Navy report "losing GI Bill benefits" as one of the most important factors in their decision to leave the service.

The Committee concurs in the concerns expressed by the Department of Defense and others and is sypathetic to the argument that a servicemember should not be penalized by losing earned benefits because of a longer term of service to the Nation. Thus, the Committee bill would repeal section 1662(e) of title 38, the provision which establishes the December 31, 1989, termination date. It would thereby allow all members of the service, as well as those who left service after December 31, 1979, who are entitled to GI Bill benefits generally a full ten-year period from the date of their separation from service to complete their educations under the current chapter 34 GI Bill. The Committee has taken the position of recommending this full 10-year period approach, rather than other proposals for modified delimiting periods, in recognition of the Department of Defense's and VA's position in support of a delimiting period which parallels current law.

In recognition of the fact that the major underlying purpose for repealing the termination date is based more on a retention incentive for the Armed Services, rather than on a readjustment benefit for veterans, the Committee bill would provide that the department of Defense would bear responsibility for the cost of all educational and training benefits paid after December 31, 1989. Thus, the Committee bill would require the Department of Defense to reimburse the VA for all such costs after that date.

Repeal of the 50-Percent Rule

Under existing law, vocational schools are generally required to report every 2 years on the number of graduates who have obtained employment in the career field for which training was received. This requirement for a report was enacted in Public Law 93-508 in 1974 to assure that training provided under the GI Bill was training that would indeed lead to employment. Enactment of this provision resulted from Congressional concern that vocational courses may not always be of adequate quality and intensity to prepare the trainee for employment in the chosen vocation and that some vocational courses tend to serve avocational, recreational, and other personal enrichment objectives rather than basic employment goals. Pursuant to the current law requirements, schools are required to demonstrate that at least 50 percent of graduates from courses obtained employment for at least 10 hours a week in the field for which they were trained.

At the time this provision was enacted, there were over 600,000 veterans enrolled in vocational training. This compares with approximatley 65,000 veterans enrolled in such training at the present time. Enrollment of veterans in vocational training is projected to continue to decrease. The Committee is aware that the preparation and filing of these reports are very costly, necessitating approximately 324 man-years of effort on the part of schools each year to meet these requirements.

The Committee believes that vocational schools have begun to exercise a greater role in employment planning for students enrolled in vocational courses and in the utilization of the training to match employment needs. According to the latest VA statistics, of the approximately 22,000 courses on which reports were required to be filed last Spring, only about 3 percent of the courses were disapproved for failure to meet the 5-percent employment requirement.

In light of the declining numbers of individuals receiving vocational training under the GI Bill and the increased awareness of vocational schools in terms of their roles in employment planning and meeting the employment needs of their students, the Committee believes there are sufficient safeguards in the administrative provisions of title 38 to protect against abuses. Thus the Committee bill would amend sections 1673(a) and 1780(a) to repeal the requirement for schools to compute and report on the employment of graduates. The Committee notes, however, that it intends to continue to monitor the situation closely, and that it will not hesitate to take remedial legislative action should significant abuses reoccur.

Clarification of the 85-15 Rule

In 1980, in connection with Public Law 96-466, the Congress amended section 1691(a) of title 38 to permit educationally disadvantaged individuals who were on active duty in the Armed Forces to pursue a high school diploma or general equivalency certificate training without charge to their entitlements to educational benefits under chapters 32 and 34, in the same fashion that veterans could use their entitlements for such training. The 1980 amendment further required in subsection (c) that schools offering such courses to individuals on active duty would be subject to the so-called "85-15" rule, which requires that no more than 85 percent of the individuals enrolled in a course may be in receipt of VA benefits, notwithstanding the fact that such high school level courses are exempt from compliance with the rule by virtue of the provisions of section 1673(d).

The Committee bill would amend section 1673(d) to conform to the amendments made in 1980, and reflect the fact that it is intended that the 85-15 rule apply to such courses. The Committee understands that this amendment is consistent with the manner in which the VA is presently approving such courses, and that the amendment would have no substantive effect. It is further noted that the current law's exemption of courses offered under Department of Defense contract and given on or adjacent to military bases would remain in effect.

Charge to Entitlement for Independent Study

The Committee bill would make a nonsubstantive amendment to section 1782(e) of title 38 to correct an inadvertent error made in connection with the enactment of Public Law 96-466. In that law, enacted in 1980, the Congress attempted to define more clearly the rate at which benefits should be paid for the pursuit of programs of independent study and the rate at which entitlement should be charged for such pursuit. Section 309 of Public Law 96-466 amended title 38 to provide that when the entire program of education is pursued by means of independent study, a veteran's entitlement would be charged at one-half of the full-time rate, rather than at the actual rate of pursuit, but at not more than the less than half-time rate. Entitlement charged at the not less than half-time rate is charged at the rate at which benefits are paid to a trainee.

The Committee bill would correct this error which resulted in providing that a student be charged for entitlement at a rate greater than the use of benefits. The Committee understands that, since the VA has not applied the erroneous measurement criteria, the amendment would have no substantive effect.

Administrator's Reports on Educational Loans

Under existing law, the Administrator is required to report annually to the Congress on the VA's review of defaulted educational loans. Section 1798(e) of title 38 presently spells out in detail what such annual reports are to contain, including a school-by-school breakdown of default rates. The original purpose of this report was to provide information to the Congress on the VA's experience with its educational loan program.

The Committee notes that the number of VA educational loans being made has declined significantly, and only a small number of loans are now being made. Indeed, Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, repealed the authority to make such loans except to students enrolled in full-time programs of training after their delimiting periods had expired and to students enrolled in flight training programs.

The Committee continues to be quite concerned regarding the high default rate currently associated with the VA's educational loan program and the VA's efforts to collect money it is owed generally. However, it does not appear that the requirement for a report in the detail now specified in section 1798(e) contributes significantly to the VA's ability to collect its debts. Thus, since there is a time-consuming, costly administrative task associated with the compilation of the report in such detail (especially when compared to the small number of loans being made), the Committee proposes that it be eliminated.

Thus, the Committee bill would amend existing law to continue to require an annual report, but to delete the specified items to be contained in it, including the school-by-school breakdown of default rates. The Committee understands, however, that necessary information would—to the extent that it might not be contained in the annual report—upon request be able to be made available to the Congress. The Committee stresses that this action should in no way be construed as a signal that it does not place a very high priority on VA debt-collection activities and on vigorous efforts to reduce rates of defaulted educational loans.

Authority to Suspend GI Bill Benefits in Certain Cases

Under existing law, the Administrator has the authority to suspend or discontinue educational assistance allowances to eligible veterans and eligible persons when the program of education or course in which they are enrolled fail to meet one or more of the approval requirements set forth in chapters 34, 35, and 36 of title 38 or if the institution offering the program or course has violated or fails to meet one or more of the requirements of those chapters—but only if the Administrator has evidence of the fact that the particular eligible veteran or eligible person concerned is not entitled to such allowances. This means that when a course fails to meet, for example, record-keeping or reporting requirements, payments to eligible veterans and persons continue until remedial action, such as withdrawal of approval, is effected or until evidence of nonentitlement is acquired in individual cases. The process of withdrawal of approval or of acquiring individual evidence is often a long and time-consuming one and thus, in some cases payments may be unduly prolonged. As a result, extensive overpayments may be made.

For example, during a compliance-review process, assume that the VA reviews a 10-percent sample of the files of eligible veterans and persons enrolled at an institution where 1,000 such trainees are enrolled—100 files; and in 80 percent of those 100 files—or 80 cases—substantial violations of a title 38 record-keeping requirement are found. Under current law, despite the fact that there appears to be a substantial pattern of noncompliance, the VA may discontinue educational assistance only to those veterans and persons in the 80 erroneous cases actually identified. The payment of benefits to those remaining 900 veterans and eligible persons may not be interfered with until their cases are individually reviewed or the approval for the institution is withdrawn. In the meantime, potential overpayments may be being made.

The Committee is very concerned by the continuing problem of GI Bill overpayments and is sympathetic to the concerns raised by the VA in connection with this problem. However, the Committee is equally concerned about providing the Administrator with the authority to discontinue or suspend GI Bill benefits in cases where eligible veterans and persons are entitled to benefits. The Committee has carefully considered the proposal made by the Administration in section 209 of its proposed bill, S. 2380, and is proposing, with modifications, a provision that is intended both to curb overpayments and to provide appropriate protections for eligible veterans and persons and the educational institutions concerned.

Under section 207 of the Committee bill, the Administrator would have authority to suspend GI Bill benefits and to disapprove new enrollments in any course when there was evidence of a substantial pattern of title 38 trainees in receipt of assistance who are not entitled to such assistance because course approval requirements have not been met or the institution offering the course has violated a title 38 record-keeping or reporting requirement. In the example set forth above, the Committee views the existence of an 80-percent ineligibility rate as constituting evidence of the requisite substantial pattern on which the Administrator could properly base a decision to suspend benefits

A suspension of benefits, however, would not be permissible until after the VA had provided a written notice of the intent to suspend benefits to the State approving agency and to the institution. The institution, following such notification, would have a 60-day period (or such longer reasonable period as the Administrator determines appropriate) in which to take such action. However, prior to suspending benefits, the VA would be required to give a 30-day advance notice to the affected students together with the reasons for the proposed suspension. The Committee notes that this 30-day notice period need not be in addition to the 60-day (or longer reasonable) period, but rather may be subsumed within it.

In a case in which the institution has been provided with notification of its noncompliance or violation and has indicated to the VA its refusal to take corrective action, the VA could proceed immediately to provide the 30-day notice to the students concerned.

This student-notice requirement reflects two important considerations. First is the Committee's concern that benefits to which eligible veterans and eligible persons are rightfully entitled not be suspended without prior notification to those individuals so they have an opportunity to demonstrate to the VA that their benefits are being properly paid or to express to the school their desire for the school to bring itself into compliance with the requirement in question. In this regard the Committee emphasizes that, in the suspension situations that would be covered by the new provision, there would be no evidence of individual ineligibility in the great majority of cases; if there were, the VA would have the authority under existing law promptly to resolve the bulk of the problem at the school involved through the discontinuation or suspension of benefits in individual cases. The second consideration reflected is the Committee's belief that a recalcitrant institution under pressure from its students will be more likely to make a good faith effort to correct problems that could result in suspending benefits to its students.

The Committee also wishes to emphasize that this proposed suspension authority is not intended to be exercised as to a particular individual when the evidence in the VA's possession indicates that that individual is in fact eligible for educational assistance. Thus, as in the example described above, where a compliance review shows that some individuals are indeed entitled to assistance, the benefits of those individuals is not to be suspended. In addition, the VA should promptly consider evidence submitted by other individuals after the 30-day notice is given and resolve the merits of their contentions before proceeding with any suspension of their benefits under this provision.

Finally, the Committee notes that although the VA's proposed provision would have authorized a permanent discontinuation of benefits in the circumstances outlined, the Committee bill provides authority only for a temporary suspension. The Committee stresses that the purpose here is to bring about necessary compliance by the institution not the discontinuation of assistance to individuals and thus believes that the threat of suspension should be sufficient to bring about compliance in the vast majority of cases.

Clarification of Targeted Delimiting Date Extension

Background

Section 201 of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981, which was enacted on November 3, 1981, amended title 38 to provide for a one-time, 2-year extension of the GI Bill delimiting period—that is, an extension of the 10-year period following discharge during which a Vietnam-era veteran may use his or her GI Bill benefits. This extension was targeted on educationally disadvantaged and unskilled or unemployed Vietnam-era veterans and was designed to permit such veterans an additional period of up to 2 years to pursue vocational-objective or apprenticeship or other on-job-training programs and, for those without high school diplomas, to pursue high school equivalency courses. As enacted in Public Law 97-72, the extension became effective on January 1, 1982, and will continue until December 31, 1983.

The purpose behind this extension was to provide in a cost-effective manner for a limited extension of the delimiting period for those veterans of the Vietnam era—particularly but not exclusively those who are unemployed and educationally disadvantaged—who have never effectively utilized the GI Bill benefits to which they are or were entitled and are in need of certain education or training assistance. The provisions of the targeted delimiting date extension that were enacted last year were similar to those passed by the Senate during the 96th Congress in connection with S. 870, but not then agreed to by the House and hence not contained in the final version of H.R. 5288 as it became Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980.

On March 11, 1982, the Veterans' Administration published a notice in the Federal Register requesting comments on the provisions of DVB Circular 22-81-15, dated December 22, 1981, implementing this targeted delimiting date extension. On March 18, Senator Cranston wrote to Administrator of Veterans' Affairs Robert P. Nimmo, expressing concerns about the manner in which the VA is administering this new provision, and expressing the view that the VA's interpretation of this provision is unduly restrictive and not consistent with the underlying congressional intent, as evidenced by the legislative history of the provision. The Administrator's response of April 8 simply restated the position and asserted that the interpretation was consistent with congressional intent. The exchange of correspondence follows:

ALAN K. SIMPSON, WYO. CHAIRMAN

STROM THURMOND, S.C.
ROBERT T. STAFFORD, VT.
BOB KASTEN, WIS.
JEREMIAH DENTON, ALA.
FRANK H. MURKOWSKI, ALASKA
ARLEN SPECTER, PA.

ALAN CRANSTON, CALIF.
JENNINGS RANDOLPH, W. VA.
SPARK M. MATSUNAGA, HAWAII
DENNIS DE CONCINI, ARIZ.
GEORGE J. MITCHELL, MAINE

THOMAS E. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

March 18, 1982

Honorable Robert P. Nimmo
Administrator Veterans' Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Bob,

I am writing in response to the March 11, 1982, Federal Register notice requesting public comments on the provisions of DVB Circular 22-81-15, dated December 22, 1981, which implements the so-called targeted delimiting date extension provision enacted in section 201 of the Veterans' Health Care, Training, and Small Business Act of 1981* (Public Law 97-72). The substance of the concerns expressed in this letter were shared in January by Committee Minority staff with Chuck Hagel and Bob Coy.

Under the new provision (section 1662(a)(3) of title 38, United States Code) a veteran whose GI Bill delimiting period has expired or will expire before December 31, 1983, has until that date to use his or her remaining entitlement for vocational training or apprenticeship or other on-job training if the Administrator has determined that the veteran is "in need" of the training "in order to achieve a suitable occupational or vocational objective." That determination is to be made in accordance with regulations that the Administrator must prescribe.

Although the new provision gives the Administrator certain programmatic flexibility in making determinations regarding the veteran's "need" for training, I have very substantial concerns regarding the unduly restrictive manner in which the Circular implements this legislation. As to certain restrictions, I doubt the legal authority; as to others, I seriously question the policy justification. On the whole, I believe the manner in which the VA is implementing this provision is inconsistent with the Congressional intent underlying the provision as evidenced by its legislative history, and represents what will be perceived as a broken promise of assistance to many Vietnam-era veterans.

My specific comments follow:

---

*In the Circular, "Small" is incorrectly omitted.

Eligibility Criteria

Section 3.c. of the Circular provides that only veterans who are determined to be "unskilled" will be eligible for vocational and on-job training, and section 6.b. provides that any one (1) who holds a two-year degree or has completed 60 hours of college-level courses, or (2) who has ever held or qualified for more than an entry level job, or (3) who has ever had a job requiring more than three months of vocational preparation will not be considered unskilled, regardless of whether that individual is currently employed or underemployed or able to obtain employment. Thus, the Circular reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will be ineligible if any one of these three criteria apply, and, where that is so, the inability of the individual to obtain employment is given no consideration.

This approach is inconsistent with the legislative history of section 201 of Public Law 97-72 in two major respects. First, that legislative history is replete with evidence that the purpose of this provision is to help deal with the employment problems of Vietnam-era veterans. The House Veterans' Affairs Committee, on page 5 of its report on H.R. 3423 (H. Rept. No. 97-78), stated, with respect to the provision from which section 201 of Public Law 97-72 was derived, that the purpose was to provide a "means to isolate and target job training and placement for those veterans of the Vietnam Era _who are still experiencing employment problems_." (Emphasis added.)

In this same connection, on page 4 of that report, the House Committee expressed its concern for the "needs of ... veterans who have not successfully readjusted, many of whom are frequently unskilled, unemployed, or underemployed." Those concerns were echoed during the Senate's consideration of its version of the provision (see the debate on Amendment No. 48 to S. 921 in the _Congressional Record_, pages S6205-07, daily ed., June 15, 1981). During the floor debate on the Senate provision, I described the extension proposal,of which I was the author,as a means of assisting "unskilled, unemployed Vietnam-era veterans" whose needs could be "seen in the high rates of unemployment that continue to plague this segment of the labor force", and the Chairman of the Senate Committee described the provision as "an effective way to reach and provide assistance to those Vietnam-era veterans who are in need of employment _or_ minimal educational assistance." (Emphasis added.)

Finally, in October during the Senate debate on final passage of the provision that was enacted, I noted that it "should be of particular benefit to those veterans seeking assistance from vet centers who have employment-related difficulties" (_Congressional Record_, page S11587, daily ed., October 16, 1981).

Thus, it is clear that the Congressional intent was to focus the extension of vocational and on-job training assistance on Vietnam-era veterans who are experiencing employment problems. For the VA to ignore those problems wherever one of the three automatic criteria set forth in section 6.b. of the Circular applies, is to ignore or reject the clear legislative purpose of the extension.

The second respect in which the Circular is inconsistent with the legislative history is that the approach taken in the Circular precludes the making of individualized determinations of the "need" for training. As originally passed by the House, the provision in question allowed determinations of need to be made by "a counselor at a readjustment counseling center ..., a State employment office, a veterans' assistance office, or a Veterans' Administration medical facility ...." Under the provision enacted into law, the authority to make determinations of need was granted only to the Administrator because of concerns related to the administrative and other problems that could result from granting such adjudicatory authority to various categories of personnel with no adjudicatory experience. There was no intention whatsoever to abandon the individualized approach to making determinations of eligibility.

Thus, although the three criteria discussed above may be appropriate in order to determine who should not automatically be eligible for the extension, they seem to me much too rigorous to cause automatic ineligibility. Moreover, unless there are reasonable policy justifications for these rigid categories of ineligibility, I believe that the criteria in the Circular are vulnerable to challenge on grounds of arbitrariness and capriciousness in agency action.

What is lacking, in order for the Circular to be consistent with the law and Congressional intent, is a criterion for making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the fact that one of the existing criteria for denying eligibility applies. Thus, I strongly urge that a new criterion be added providing that if any one or more of these three factors are present, eligibility be determined by examining the veteran's overall employment and training history to determine whether or not the veteran requires training, in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. (Explanatory materials could indicate that a temporary lay-off in a skilled occupation would not provide eligibility in the absence of circumstances indicating that there is no reasonable expectation that the veteran will be able to maintain employment in that or a similar occupation.) In the case of a veteran who has more than 60 semester hours of college credit or has obtained a two-year college degree, guidelines should require that the veteran be referred to a qualified counselor to determine if the credits or the degree represent an attainment of a skill that the veteran is likely to be able to use in the employment market in the foreseeable future. Likewise, notwithstanding the nature of previously held employment, substantial periods of unemployment should also be taken into account as part of making a fair evaluation of the current relevance of the veteran's prior training and experience. Finally, the guidelines should require that consideration also be given to the period of time that has elapsed since the end of any prior training and employment. For example, although as noted in section 6.b.(2)(c) of the Circular, a veteran who had training as an ambulance attendant prior to military service may very well have trained for nine months, ten years later that training may not provide the veteran with a realistic opportunity for employment and should not alone be a grounds for denying the veteran a delimiting date extension.

Exclusion of Correspondence Training

I also believe that the blanket exclusion, in section 3.d. of the Circular, of correspondence training benefits during an extension is clearly unauthorized and contradicted by the legislative history of Public Law 97-72. The only specific type of vocational-objective training considered for exclusion by the Congress was flight training, and the legislation as originally passed by both Houses provided such an exclusion. That exclusion was deleted from the provision ultimately enacted on the grounds that, since Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, had terminated GI Bill benefit eligibility for post-September 30, 1981, enrollments in flight training, the exclusion of flight training was superfluous. Further, as the author of the Senate-passed version of the extension provision, I call your attention to my remarks, made during this Committee's April 30, 1981, hearing (excerpt from the hearing enclosed) specifying that it was indeed the intent to permit correspondence training to be pursued under that extension. Nothing in the language or anywhere else in the legislative history of the enacted provision negates that expression of intent.

Exclusion of College-level Degree Courses

With respect to the limitations that have been placed on the programs of study which may be pursued by a veteran during an extension, I would appreciate clarification on the status of certificate programs offered by junior and community colleges. It is my understanding that such vocational-objective programs of study would be approved under the extension if the program met the applicable criteria for VA approval. Is this a correct understanding?

I would also like to know what arrangement would be made to enable a veteran to use the extension to pursue vocational-objective training if he or she (1) resides in a geographically-remote area where there are no trade or technical schools and the local community college offers vocational-objective type training only through associate degree programs or (2) wishes to pursue training that is offered only through a degree program.

In this connection, I note that there is no legislative language or history supporting the blanket exclusion, in section 3.d. of the Circular, of college-degree courses. Indeed, the law expressly provides the extension for pursuit of "a course with an approved vocational objective". As defined in VA regulations (38 CFR 21.4230(b)), a vocational-objective program of education is "one that leads to an occupation" and "may include educational objectives essential to prepare for the chosen occupation". On this basis, it seems clear to me that a program leading to an associate's degree in, for example, auto mechanics or air conditioning repair could be considered vocational-objective training. Why have you determined that such a program should not be covered by the extension?

Need for Data

Finally, in light of the short, two-year period of eligibility, I am concerned about the time involved in processing applications for extensions. In this regard, I would appreciate receiving from you, on an expedited basis, summaries of the quarterly reports on the implementation of this provision required to be submitted to Central Office by section 12 of the Circular, as well as an indication, on a quarterly basis, as to the average processing time for applications (broken down to show time involved in applications approved and applications denied). Further, in light of the concerns I have raised and the possibility of future administrative or legislative action to modify what I believe are excessively rigid criteria lacking either statutory or policy justification, I urge that steps be taken to assure that records are maintained on those veterans whose applications have been denied so that, if need be, those veterans can be contacted in the future.

Thank you for your consideration. I look forward to hearing from you regarding this matter in the near future.

With warm regards,

Cordially,

Alan

Alan Cranston
Ranking Minority Member

Enclosure

cc: Honorable Charles T. Hagel
John P. Murphy, Esquire
Ms. Dorothy L. Starbuck

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D. C. 20420

APRIL 8 - 1982

Honorable Alan Cranston
Ranking Minority Member
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Cranston:

Thank you for your letter of March 18, 1982, concerning implementation of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Act of 1981.

With the amendment to section 1662(a) of title 38, United States Code, which provided an extension to the delimiting period of certain Vietnam-era veterans, I was charged with the responsibility for developing criteria for determining the need for such an extension in accordance with the intent of Congress. In reviewing the history of this law, careful note was taken of the expressed legislative intent to extend the delimiting period to allow pursuit of a program of apprenticeship or other on-the-job training, or a program with a vocational objective if the veteran is in need of such training in order to achieve a suitable occupational or vocational objective, or for pursuit of a program of secondary education. This amendment was viewed as a means to provide a limited extension to veterans who, within their original 10-year delimiting period, were unable to effectively utilize their benefits to achieve the education or skills necessary to gain entrance to the workforce.

I believe the eligibility criteria contained in DVB Circular 22-81-15 focus on those veterans who Congress intended to assist; that is, veterans who lack a high school diploma, or the equivalent, and those who are unemployed or underemployed because they do not possess the education or skills that would provide them with an occupation. We do not believe it was the intent of Congress to provide a general extension of the G.I. bill to veterans who do possess a relatively extensive educational background, or a marketable skill, but who are experiencing employment difficulties that are more closely related to the Nation's economic problems in general than with their military service. I also believe that the criteria do allow for individualized eligibility determinations. Our procedures also require a formal administrative decision for most cases, approved by at least a section chief. We also provide for the determination to be made by a professional psychologist if requested by the veteran. Although our criteria may appear rigid, it is our administrative experience that the more discretion that is permitted in such determinations, the more open we are to charges of arbitrariness and capriciousness.

Honorable Alan Cranston

In considering the limitations of the program, it was determined that training by correspondence should be expressly precluded. This decision was based on the provisions of the Housing and Urban Development and Independent Agencies Appropriations Act which, as you are aware, prevents us from reimbursing veterans who may choose such a mode of training. In addition, courses leading to college degrees were excluded. This exclusion was derived from the wording in the law, itself, which permits pursuit of "a course with an approved vocational objective" (emphasis added). Courses are approved under title 38, United States Code, as leading to either vocational, professional, or educational objectives and the requirements for approval differ widely according to the objective to which the courses lead. Although many programs leading to associates degrees in the applied sciences or arts are closely identified with certain vocational objectives (e.g., auto mechanic), such courses do not meet the requirements of the law for approval as leading to vocational objectives. Some schools, usually junior or community colleges, do offer certificate courses that lead to approved vocational objectives. Pursuit of "certificate courses" is permitted in such circumstances.

We will be happy to furnish you a summary of the quarterly reports which we receive from our field stations. Unfortunately, the summary for the first quarter (January 1 through March 31, 1982) will not include a breakdown of the average processing time since our stations were not requested to document this information. In view of your request, however, we are requiring that this information be furnished in future reports, and that a listing be made, by name and claim number, of those veterans whose applications are denied.

I appreciate this opportunity to respond to your concerns in this matter, and look forward to providing you the further information you requested.

Sincerely,

ROBERT P. NIMMO
Administrator

The Committee's concerns with this matter rest primarily with the eligibility criteria established by the VA for veterans who are, in the words of the statute, "in need of [vocational objective or apprenticeship or other on-job training] in order to achieve a suitable occupational or vocational objective." In implementing the extension provision, the VA ignored clear Congressional intent that the extension was to be focused on the needs of Vietnam-era veterans who are experiencing unemployment problems. Instead, the VA took the position that no veteran should be determined to be in need of such vocational or on-job training unless he or she is found to be unskilled and adopted very narrow criteria with respect to who is unskilled. Under these VA criteria, no veteran who holds a 2-year degree or has completed 60 hours of college-level courses, or who has ever held, or even qualified for, more than an entry level job, or who has ever had a job requiring more than 3 months of vocational preparation is considered unskilled. This is so regardless of whether that individual is currently employed or underemployed or able to obtain employment.

Thus, the VA's manner of implementing the provision enacted last year reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will automatically be found ineligible if any one of these three criteria apply. Where any of the criteria are found to apply, the inability of the veteran to obtain suitable employment and his or her need for training in order to be able to do so are given no consideration. There is no criterion that permits making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the applicability of one of these three regulatorily imposed criteria for denying eligibility.

The most unfortunate effect of these criteria is demonstrated quite dramatically in the VA's data, provided on May 21, 1982, on experience under the extension for the first quarter of 1982. Of 2,455 applications received for delimiting date extensions, only 98—or less than 4 percent of those received—were approved on the basis that the veteran was found unskilled; 575 applications—or about 23 percent—were denied on the grounds that the veteran was not unskilled. There were an additional 1,153 claims still classified as "under development" at the close of the first quarter, generally to determine whether or not the veteran was unskilled.

These numbers contrast sharply with those projected by the Congressional Budget Office last year in connection with its cost estimate for H.R. 3423, the Veterans' Training and Business Loan Act of 1981—title I of which contained the House version of the provision eventually enacted into law. At that time, CBO estimated that 38,900 veterans would receive training under the targeted delimiting date extension and that the cost of the provision would be $52 million in fiscal year 1982 and $90 million in fiscal year 1983. The provision ultimately enacted was no less restrictive than that which formed the basis for these CBO cost estimates.

It should also be noted that the VA, in its December 29, 1981, press release announcing the availability of the extension stated that:

> As many as 39,000 Vietnam-era veterans are expected to take advantage of . . . (this) extension . . .

Further, in its fiscal year 1983 budget documents, the VA estimated that $48.6 million would be expended for this program in fiscal year 1982, and the VA's fiscal year 1983 budget request included $68.7 million in the VA's readjustment benefits account for this delimiting-date extension. Certainly, the way the provision is being implemented by the VA will never permit participation to reach the level assumed in these projections.

The VA has advised that it is prepared to make a series of appropriate but minor modifications in the manner in which automatic ineligibility is being determined. Specifically, the Chief Benefits Director Dorothy Starbuck sent the following August 17, 1982, letter to Chairman Simpson and Ranking Minority Member Cranston:

56

Department of Veterans Benefits
Washington, D.C. 20420

Veterans Administration

AUG 17 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The House Veterans Affairs Committee Subcommittee on Education, Training and Employment held a hearing on June 17, 1982, regarding the implementation of Public Law 97-72. Much of the testimony introduced at the hearing concerned the extension of delimiting dates of veterans who are educationally disadvantaged or unskilled. In response to inquiries regarding the large number of denials associated with this program, I indicated that I would have a special review conducted of ten percent of the claims denied to determine whether the decisions were proper. The review has been completed and the findings are enclosed for your information.

The examination of 309 individual case files selected from sixteen of our field stations indicated that the decisions to deny extensions of delimiting dates were proper under existing criteria. However, several concerns were identified which have led me to initiate changes in our processing instructions. Foremost among these changes is an upward revision in the amount of vocational preparation which will be recognized before an individual is considered ineligible for an extension. A job requiring three months or less of vocational preparation was defined as being entry level in DVB Circular 22-81-15 dated December 22, 1981. That level was based upon our belief that large numbers of veterans with very low skill levels would apply for an extension and that this program should be targeted to those most in need of assistance. Such has not proven to be the case, and I believe an upward revision of this criterion is justified. I am, therefore, allowing up to two years of vocational preparation, rather than the previous three months, as constituting entry level for purposes of an extension of delimiting date.

The second primary change involves the consideration of military training and experience as vocational preparation. Background in the military had been evaluated on the same basis as other training and experience, but the review found that extremely few of the veterans who applied under PL 97-72 had subsequently used military skills in civilian employment. I am, therefore, directing that military training and experience not be considered as vocational preparation. The only exceptions will involve career military personnel

In Reply Refer To 22A

and those veterans who have subsequently continued civilian careers directly related to military preparation. Third, I am instructing our field stations not to consider vocational preparation attained prior to entering the military as precluding eligibility. It is my belief that the changes which I have initiated will result in a substantial increase in the numbers of veterans who will qualify for an extended delimiting date under the provisions of PL 97-72.

I was also concerned that a portion of the veterans who requested the help of counseling were not afforded this assistance. Therefore, our instructions will be clarified and expanded with respect to counseling. Decisions based upon limited or dated information will be reduced, and development of current information from veterans will be increased. Added emphasis will be placed on the need to provide veterans with information about alternative programs, such as vocational rehabilitation, as well as the need to properly inform all denied applicants of their appellate rights. These procedural changes are intended to further enhance the operation of this program and provide needed services to those who apply.

A listing is being maintained at each field station of veterans whose applications have been denied. Cases on this listing will be individually reviewed to determine eligibility under these revised criteria. Those who are found to be eligible will promptly be notified of this decision. Our revised procedures will be included in an amendment to the basic circular for field station distribution and for publication in the Federal Register. I trust that this information will be of assistance to you in your continuing oversight of this program.

Sincerely yours,

Dorothy L. Starbuck

DOROTHY L. STARBUCK
Chief Benefits Director

Enclosure

VETERANS ADMINISTRATION

DEPARTMENT OF VETERANS BENEFITS

Review of Claims Folders - Denial of Delimiting Date Extensions Under Public Law 97-72

1. BACKGROUND

a. Public Law 97-72 amended Title 38 U.S.C, Section 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled. DVB Circular 22-81-15 with Changes 1 and 2 provides instructions for extending the delimiting dates of veterans who are educationally disadvantaged or unskilled. Statistics regarding this program are generated through a quarterly report (RCS 22-28), and data indicate that claims have been denied in 82% of the cases processed.

b. The Chief Benefits Director, in testimony on June 17, 1982, before the HVAC Subcommittee on Education, Training and Employment, made a commitment to review ten percent of the denied claims to determine if the actions were proper and in accordance with agency directives. In compliance with this commitment, the Education Service requested 311 denied claims from 16 regional offices. The cases selected were from the stations shown below:

EASTERN		CENTRAL		WESTERN	
Atlanta	25	Des Moines	28	Albuquerque	13
Boston	14	Detroit	25	Portland	20
Hartford	6	Indianapolis	21	San Francisco	20
Newark	18	Montgomery	20	Seattle	20
Philadelphia	20	Nashville	26		
St. Petersburg	27	Sioux Falls	8		
TOTALS	110		128		73

c. There were 310 cases actually received of which 309 were usable for review purposes (one case was an approval). A special review team comprised of four technically competent staff members conducted dual reviews of all files. A review sheet (Attachment A) was devised and completed for each case examined. Following the completion of all reviews the results were tabulated on summary data sheets (Attachment B). Individual station letters are being prepared enumerating any corrective actions or procedural changes needed.

2. FINDINGS

a. Denial Actions: In no instance did Central Office review find the station denial to be incorrect under existing criteria. There were many procedural points of difference among the stations and several cases where further development would have been recommended. However, even in these cases the information on file was sufficient to support the denial of the claim.

b. Procedural Improprieties: In 44 instances, 14.2%, there was an incorrect referral to VR&C which was not requested or a failure to refer when counseling was requested. When a case was not referred as requested, the Adjudication Division properly denied the claim although the claimant was not afforded the benefit of other counseling assistance. In 30 cases, 9.7%, there was no documentation to indicate that appellate information was sent to the veteran. Ten veterans, 3.2%, who were informed of appellate rights, had filed a notice of disagreement. Some cases did not have formal administrative decisions prepared as required while others prepared decisions unnecessarily. In all of these cases the denial action was proper and supported by evidence of record. Some of the letters to the veterans did not fully explain the basis for denial and resulted in followup inquiries for clarification. Attachment H contains select data broken down by station.

c. Specific Vocational Preparation: Most veterans had attained levels of education, training or experience equivalent to two to four years of preparation. The average of the highest SVP codes assigned to the cases was 6.4. Not all cases had SVP codes since some denials were based upon college credit, failure to respond, etc. Some cases had more than one SVP code, and in these instances the highest code was used. There were 218 cases which had a code available, and 111 of these achieved an SVP of 7. There were only 21 cases, or 9.6%, with a code of 4, the lowest SVP which would preclude eligibility for an extension. Attachment C contains a complete depiction of the distribution of scores. Attachment C-1 defines the various SVP codes available.

d. Entitlement Use: Veterans in this sample used a mean of 12.65 months of prior VA educational entitlement. There were 47 veterans, 15.2%, who had used no prior educational benefits and 21 veterans, 6.7%, who had used more than 36 months of entitlement. The request for an extension represented a second or subsequent change of program for 88 veterans, 28.5% of the total. Attachment D has a breakdown of benefit use by station, and Attachment H shows second change of programs.

e. Educational Attainment: There were 34 veterans, 11.0%, who did not have a high school diploma or GED, and 62 veterans, 20.0%, who were college graduates or who had completed two or more years of college. It was noted that among those with no high school diploma many had attained some type of training since leaving the military - NCD program, correspondence course, or OJT/apprentice training. Attachment E presents data on educational attainment.

f. Training Requested: College level training was the most requested type of program with 70 veterans, 22.7%, asking for college attendance. However, nearly half of these college requests were for two-year technically related degree programs. Only 10 veterans, 3.2%, requested high school training although 11% of the applicants were not high school graduates. All denials for high school training were based upon the course having no charge for tuition and fees. Allowable payment is limited by law to the cost of tuition and fees charged. Forty-two claims, 13.6%, were for mechanical or machinist training and 34 claims, 11.0%, were for various OJT/apprentice courses. Approximately half of the OJT/apprentice applicants were already employed in the requested program. Attachment F lists the primary categories of training requested.

g. Age of Applicants: The average age of the applicants was 35.3 years, with 274 veterans, 88.7%, falling between 31-40 years of age. Twelve veterans, 3.9%, were 30 years or younger, and 13 veterans, 4.2% were over age 50. St. Petersburg had the high mean age of 29.6 years and Albuquerque the lowest at 32.9. Attachment G contains further breakdown.

h. Veterans' Employment: Definitive information was not available in the claims folder to provide meaningful data on veterans' last employment, salary, location, length of time so employed, or reason for unemployment. A substantial number of denials based on "not unskilled" were supported by evidence of record in the claims file, and no development was necessary or undertaken. Although the information of record was sufficient to support the denial action, it did not provide current employment information. The few cases which contained information regarding reasons for unemployment focused on economic conditions - "plant closed", "laid off", "cut back in work", "went bankrupt", etc. In no instance was lack of skill or training stated as a factor in unemployment. Neither was veteran status or prior military service listed as a contributing factor to lack of employment.

3. DISCUSSION

a. The total Vietnam Era veteran population numbers 9,757,000. Of this gross population, only 5,378 applications have been received requesting an extension under PL 97-72. Based upon this low number of applicants and the results of the case reviews, it is postulated that unemployed and underemployed Vietnam Era veterans are more interested in securing viable employment than in undertaking an extended program of education or training. It is further observed that the types of training requested by the applicants did not differ substantially from the types of training or employment previously experienced by these same applicants. One veteran who has a background in welding may apply for a program of training in auto mechanics while another veteran in the same locale who is experienced as a mechanic may be applying for welding. It is proposed that the types of programs generally requested for extension would not substantially enhance the veterans' employability.

b. The denial actions by the various field stations were all correct according to the minimum requirements stated in DVB Circular 22-81-15, but further development was suggested in many instances. Several stations denied claims purely from information of record even though such information was marginal and dated. Information contained on the DD 214 (separation from active military duty form) or VAF 22-1990 (initial application for GI Bill benefits) formed the basis for a large number of denials premised upon "not unskilled". A more liberal development policy at these stations may or may not have affected the outcome of the claims. However, in select instances where information was developed, it was noted that decisions based solely on job titles carried higher SVP codes than decisions which considered an expanded description of duties. This would suggest an expansion of the criteria used to justify a development letter. Development should perhaps become mandatory in any case where complete education and employment information (as defined in DVB Circular 22-81-15, paragraph 5.b.(1)-(3)) is not of record.

c. Twenty-nine (9.4%) of the veterans who applied for an extension had a service-connected disability of 10% or greater. An additional five applicants referenced non-military injury or illness as a factor in requesting an extension. In only one of all these cases was counseling provided. In two other cases counseling was requested but not furnished. The Veterans Administration has traditionally recognized a higher obligation to assist disabled veterans than other categories of applicants, but it appears that such "extra help" was not provided in these cases. Even though the denial of the claims was proper, it is believed that further assistance was called for -- such as furnishing information about Chapter 31 or state vocational rehabilitation. These cases will be brought to the attention of the respective regional offices, but perhaps there is a need to amplify instructions for all stations.

d. An overwhelming majority of applicants (82.6%) had SVP codes of 6 or higher. These equate to formal training or experience of over one year up to and including ten years. This high level of preparation, although possibly somewhat inflated as mentioned in paragraph 3.b., strongly supports the premise that the denials were proper inasmuch as the applicants were "not unskilled." Consideration could be given to raising the minimum SVP code. For example, changing from level 3 to level 6 would have allowed 84 (38.5%) more approvals in the cases reviewed.

e. (1) The Vietnam Veterans Civic Council of the Detroit VARO had made several recommendations concerning the implementation of PL 97-72. One recommendation is to include associate degree programs at community colleges which do not lead to a bachelor's degree program (i.e. associate degree in welding, automotive technology, etc.) as vocational training. Approximately 10% of the veterans in this review requested extensions for attending vocationally oriented programs at community colleges. Such programs cannot presently be approved because they do not meet the requirements of the law for approval as courses with vocational objectives.

e. (2) The Council has also recommended that military training and experience be excluded from the determination of job skills. Training and experience received while in the military is evaluated on the same basis as other training and experience. However, it was noted in our review that practically no one-term servicemen subsequently pursued civilian careers related to their military specialty. Further, it was noted that the actual military duties, when developed, often did not equate to the position title (i.e. a "wheeled vehicle mechanic" may have changed tires and washed trucks in reality). Elimination of military skills, with two qualifications, would seem to be supported. The two qualifications would exclude career military personnel and those who have subsequently pursued civilian employment based upon military experience.

f. In summary, the implementation of PL 97-72 appears to be substantively correct but in need of procedural attention. The veterans whose folders were reviewed were indeed either not unskilled or not educationally disadvantaged. No one was improperly denied an extension of delimiting date. Development of information, administrative decisions, referrals for counseling, and denial letters can all be improved. Consideration of the points discussed in this paper can perhaps enhance further the operation of this program.

Attachment A

REVIEW OF CLAIMS FOLDER (PL 97-72) CO REVIEWER ____________

1. (a) ____________ Claim Number (b) ____________ Veteran's Name (c) ____________ Regional Office

(d) Course Applied For: ____________ (e) Basis for Station Denial:
____ Not Educationally Disadvantaged
____ Not Unskilled
____ Other (specify) ____________
____

2. (a) ____________ Dates of Service (b) ____________ Date of Birth (c) ____________ Number of Dependents

3. (a) Have previous VA education benefits been used? ____ Yes ____ No

(b) If "yes", attach MINQ Screen M21, M22, M23, and/or M24 as appropriate showing all programs, dates, objectives, and whether a loan is in effect.

(c) Highest level of education attained: ____________

4. (a) Does the veteran have a service-connected disability: ____ Yes ____ No

(b) If "yes", attach MINQ Screen M13 showing the nature and percent of disability.

CENTRAL OFFICE REVIEW

5. Is the veteran educationally disadvantaged? ____ Yes ____ No ____ Unknown (development needed

6. Is the veteran unskilled? ____ Yes ____ No ____ Unknown (development needed)

(a) Training since high school: (list others on back)
(1) Course ____________
(2) Completed ____ Yes ____ No
(3) Dates ____________
(4) SPV Code ____________

(b) Last Employment: (list others on back)
(1) Title ____________
(2) Employer ____________
____
(3) Salary ____________
(4) Description ____________
____
(5) Dates ____________
(6) Reason for Unemployment ____________
____
(7) SPV Code ____________

(c) Employment Training: (list others on back)
(1) Description ____________
____
(2) Hours of instruction ____________
(3) Dates ____________
(4) SPV Code ____________

7. Delimiting date extension should be denied based upon:
____ no response to development request
____ entitlement exhausted
____ other (specify) ____________
____

8. (a) Was the requested program approved for VA benefits: ____ Yes ____ No

(b) If "no", was proper development done? ____ Yes ____ No

9. (a) Did this request count as a second change of program? ____ Yes ____ No

(b) If "yes", was it approved? ____ Yes ____ No

10. (a) Was counseling requested? ____ Yes ____ No

(b) If "yes", was it provided? ____ Yes ____ No

11. (a) Was the administrative decision properly prepared? ____ Yes ____ No

(b) If "no", what were the problems: ____________
____

12. (a) Was the dictated denial letter to the veteran properly prepared? ____ Yes ____ No

(b) If "no", what were the problems? ____________
____

ATTACHMENT B

Claim Number	Course Applied For	Basis for Denial	Dates of Service	Age	#of Dep	Prio Use Edu	Type of Training Use	Hig Edu	SCD %	Edu Dis	Uns kil	Training Since H S (SVP)	Employment (SVP)	Employment Training (SVP)	2nd Chg	Coun Requ	Com Prov	Appeal Rts Gvn	Job FILE

Attachment C

HIGHEST SVP CODE

EASTERN	SVP 4	SVP 5	SVP 6	SVP 7	SVP 8	SVP 9
Atlanta	2	2	3	5	4	
Boston	1	1		8	1	
Hartford		1	1	1		
Newark	2	1	3	7	1	
Philadelphia	1		3	9	3	
St. Petersburg		3	5	10	3	
CENTRAL						
Des Moines	5	1	6	9	2	
Detroit	2		4	10	2	
Indianapolis	1	1	4	4		
Montgomery		2	6	3	1	
Nashville	3	3	3	12		
Sioux Falls				5		
WESTERN						
Albuquerque	1			9	1	
Portland			3	4	1	
San Francisco	1	1	1	7	3	
Seattle	2	1	4	8	1	
TOTAL	21	17	46	111	23	0 = 218*
PERCENT	9.6%	7.8%	21.1%	50.9%	10.6%	0%

AVERAGE: SVP 6.4

(* Although 309 cases were included in the review, only 218 had SVP codes assigned. The balance of the cases were denied based upon college achievements, failure to respond, dishonorable discharge, etc.)

Attachment C

Appendix D
Specific Vocational Preparation (Training Time)

This represents the amount of time required to learn the techniques, acquire information, and develop the facility needed for average performance in a specific job-worker situation. The training may be acquired in a school, work, military, institutional, or a vocational environment. It does not include orientation training required of even every fully qualified worker to become accustomed to the special conditions of any new job. Specific vocational training includes training given in any of the following circumstances:

a. Vocational education (such as high school commercial or shop training, technical school, art school, and that part of college training which is organized around a specific vocational objective);
b. Apprentice training (for apprenticeable jobs only);
c. In-plant training (given by an employer in the form of organized classroom study);
d. On-the-job training (serving as learner or trainee on the job under the instruction of a qualified worker);
e. Essential experience in other jobs (serving in less responsible jobs which lead to the higher grade job or serving in other jobs that qualify).

The following is an explanation of the various levels of specific vocational preparation.

Short demonstration

Level	Time
1	Short demonstration.
2	Anything beyond short demonstration up to and including 30 days.
3	Over 30 days up to and including 3 months.
4	Over 3 months up to and including 6 months.
5	Over 6 months up to and including 1 year.
6	Over 1 year up to and including 2 years.
7	Over 2 years up to and including 4 years.
8	Over 4 years up to and including 10 years.
9	Over 10 years.

ENTITLEMENT USE DATA

EASTERN	Avg. Use	0	1-3	3-6	6-12	12-24	24-36	36-44	45+
Atlanta	18.78	-	2	3	3	9	6	2	-
Boston	11.41	1	3	4	-	4	2	-	-
Hartford	15.17	2	-	-	1	2	-	-	1
Newark	12.78	2	1	3	3	6	-	2	-
Phila	14.18	4	-	3	5	3	3	2	-
St. Pete	10.69	6	3	3	5	6	4	-	-
CENTRAL									
Des Moines	9.01	5	3	4	8	6	2	-	-
Detroit	9.49	7	-	8	5	1	3	1	-
Indianapolis	13.75	3	1	2	6	6	2	2	-
Montgomery	18.99	-	3	2	2	7	2	4	-
Nashville	16.94	3	2	3	3	7	5	2	1
Sioux Falls	5.69	2	3	1	-	2	-	-	-
WESTERN									
Albuquerque	8.88	4	1	-	3	4	1	-	-
Portland	12.34	2	6	2	2	4	2	1	-
San Fran	10.89	4	1	4	6	1	1	2	-
Seattle	13.43	2	2	3	3	6	3	1	-
TOTAL	12.65	47	31	45	55	74	36	19	2 = 309
PERCENT		15.2%	10.0%	14.5%	17.8%	23.9%	11.7%	6.1%	0.6%

Attachment D

Attachment E

EDUCATIONAL ATTAINMENT

EASTERN	Less Than 12 Yrs.	12 Yrs. or GED	12 Yrs. & NCD	Col. Less Than 2 Yrs	Col 2-4 Yrs	Col. Grad.
Atlanta	2	2	11	2	8	
Boston	3		2	3	6	
Hartford		2	3			1
Newark	1	1	6	5	2	2
Phila	1	3	9	3	1	3
St. Pete	1	6	9	7	3	1
CENTRAL						
Des Moines	9	4	5	8	2	
Detroit	2	4	5	10	1	3
Indianapolis		3	9	5	4	1
Montgomery	4	1	7	4	4	
Nashville	2	3	11	4	5	1
Sioux Falls	1	1	3	3		
WESTERN						
Albuquerque	1	2	5	3	2	
Portland	1	2	3	8	5	
San Fran	3	4	2	6	3	1
Seattle	3	2	12		2	1
TOTAL	34	40	102	71	48	14 = 309
PERCENT	11.0%	12.9%	33.0%	22.9%	15.5%	4.5%

Attachment E

Attachment F

REQUESTED TYPES OF TRAINING

EASTERN	College	H.S.	Not Stated	Carpentry, A/C, Refrig.	Machinist/ Mechanic	Welding	OJT/ App.	Radio/TV Electronics	Data Process Computer	Other
Atlanta	5	1	1	3	3	2	3	5		1
Boston	5	1	3		3		1			1
Hartford	2		2		2					
Newark	3	1	3		2		5		3	
Phila	3	1			1	1	9	1	2	2
St. Pete	5		3	5	3	1		2	2	6
CENTRAL										
Des Moines	9		3	1	5	4				6
Detroit	5	1	1	1	2	4	4	1	2	4
Indianapolis	6		1	1	5	1	2	1	1	5
Montgomery	1		4	3	4	4	1	1		2
Nashville	3		1	3	5			6		8
Sioux Falls	4		1			1	1	1		
WESTERN										
Albuquerque	3		2	1	2	1	1		1	2
Portland	8		2		1	2	1	1	1	3
San Fran.	4	2	2			2	3	3	1	2
Seattle	4	3	2		4	1	3	1		2
TOTAL	70	10	31	18	42	24	34	23	13	44 = 309
PERCENT	22.7%	3.2%	10.0%	5.8%	13.6%	7.8%	11.0%	7.4%	4.2%	14.2%

AGE DATA

EASTERN	Avg. Age	25-30	31-35	36-40	41-45	46-50	51-55	56-60	60+
Atlanta	34.4	2	18	2	2	-	1	-	-
Boston	38.0	-	7	5	-	-	2	-	-
Hartford	34.0	-	5	1	-	-	-	-	-
Newark	34.4	-	14	3	-	-	-	-	-
Phila	34.2	1	12	7	-	-	-	-	-
St. Pete	39.6	-	13	6	-	2	4	2	-
CENTRAL									
Des Moines	35.1	2	16	9	-	-	-	1	-
Detroit	35.6	1	14	9	-	-	-	1	-
Indianapolis	33.9	1	16	4	1	-	-	-	-
Montgomery	35.6	-	13	6	-	-	-	1	-
Nashville	36.1	1	14	10	-	-	-	-	1
Sioux Falls	37.4	-	3	4	-	1	-	-	-
WESTERN									
Albuquerque	32.9	1	10	2	-	-	-	-	-
Portland	33.4	1	14	4	-	-	-	-	-
San Fran	35.3	1	11	5	2	-	-	-	-
Seattle	35.0	1	11	6	2	-	-	-	-
TOTAL	35.3	12	191	83	7	3	7	5	1 = 30
PERCENT		3.9%	61.8%	26.9%	2.3%	1.0%	2.3%	1.6%	0.3%

[illegible]

EASTERN	Request was 2nd Change	Not Refer/ Incorrect Refer to VR&C	Appellate Info Not Given	NOD Filed
Atlanta	6	2	1	1
Boston		5	4	
Hartford		1		
Newark	5		4	2
Phila	6		2	
St. Pete	5	4	1	
CENTRAL				
Des Moines	8	4	1	
Detroit	5	3	1	
Indianapolis	4	2	1	
Montgomery	13		5	1
Nashville	13	4		2
Sioux Falls		3		3
WESTERN				
Albuquerque	6	2	1	
Portland	5	10	4	
San Fran	6	4	4	
Seattle	6		1	1
TOTAL	88	44	30	10
PERCENT	28.5%	14.2%	9.7%	3.2%

Attachment H

The Committee is somewhat encouraged by the modifications of the VA's previous intractable position. The new criteria will still result in automatic ineligibility determinations that will disqualify too many Vietnam-era veterans in need of assistance and still fall short of meeting the needs of certain Vietnam-era veterans who are unskilled, unemployed, or underemployed—needs that this Congress clearly felt should be met and needs that are now even greater, as evidenced by the unemployment rates, than they were when this extension provision was enacted.

In August of this year the rate of unemployment for Vietnam-era veterans, age 25 and older, stood at 8.3 percent—more than 45 percent higher than it was a year ago—representing 681,000 unemployed individuals. Of these 25-and-older Vietnam-era veterans, 86 percent, are 30 years of age or older. In the case of Vietnam-era veterans 35 to 39, those most likely to have been out of the service in excess of 10 years, there were 77,000 more veterans unemployed last month than in August of 1981—198,000 in August 1982 as compared to 121,000 a year ago. In addition, there were 239,000 Vietnam-era veterans age 30 to 34 and 75,000 age 40 and over who were unemployed in August 1982. Thus, there are more than half a million veterans age 30 or over who are unemployed and who could potentially be in need of the kind of assistance the targeted delimiting date extension could offer.

However, the Committee stresses that this program is not intended to exclude veterans who are employed; nor would all Vietnam-era veterans who are unemployed be eligible for the type of training and education available under the targeted delimiting date extension.

As a whole, it is clear that much of the unemployment problem of these individuals is related to the military-service experience of veterans of the Vietnam era. As documented in the March 1981 study prepared for the Veterans' Administration by the Center for Policy Research, entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers", Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans of comparable age. They study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "residual disadvantage in educational and occupational attainment" and that in general "military duty in Vietnam had a negative effect upon post-military achievement."

Thus the Comittee bill would amend the targeted delimiting-date extension enacted last year—section 1662(a)(3) of title 38, to clarify congressional intent by substantially limiting the programmatic flexibility given the Administrator to make determinations regarding a Vietnam-era veteran's need for training. The provision would thus invalidate section 3.c and 6.b of DVB Circular 22-81-15, the regulatory provisions restricting eligibility for the delimiting period extension, and would instead establish specific statutory criteria for determining the need for training. Under this provision the veteran could not be determined ineligible without an examination of the veteran's particular employment and training history; he or she would be found eligible if an examination showed the veteran to be in need of an OJT or vocational program of course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

The Committee emphasizes that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to avoid the use of any arbitrary, automatically disqualifying criteria such as those set forth in the DVB circular. In addition, since many of the Vietnam-era veterans for whom this extension provision was designed have been foreclosed from the opportunity to make appropriate use of their remaining GI Bill entitlement, the amendment would extend their eligibility period for one additional year—until December 31, 1984.

Tolling Delimiting Dates by Reason of Drug or Alcohol Conditions

Background

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI Bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disablity not the result of willful miscounduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee (S. Rept. No. 95-468) on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct", stated at pages 69-70:

> In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards (38 CFR section 3.301(C)(2) and (3)) alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

In 1979, the Veteran's Affairs Committee reexamined the practical consequences of denying a delimiting period extension in such cases and the dffferences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by denying a veteran a GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veteran recovering from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions, be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the Committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite the Committee's strongest urgings, the House would accept neither the GI Bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

Last year, in connection with S. 921, the proposed "Veterans' Programs Extension and Improvement Act of 1981", the Senate again approved similar provisions, and again the House refused to accept them

The Committee believes both that the opportunity to use GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting-period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

Committee Bill Provisions

Thus, section 209 of the Committee bill contains provisions—derived from Amendment No. 1984, submitted by Senators Cranston and Simpson on July 21, 1982—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In view of certain concerns and objections raised by the Veterans' Administration about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, the Committee has recast the provisions substantially. The Committee intends that the revised provisions indicate, even more clearly than the prior versions, that these provisions are not intended to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the Committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered as a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation.

Next, in recognition of the administrative difficulties that could arise from the enactment of the provisions, the Committee bill, unlike prior versions, would not require that the veteran or eligible person has "recovered" from an alcohol or drug abuse or dependence condition, but rather that such a condition be under control to such an extent as to enable an individual to participate in an appropriate program. Further, it would facilitate in two ways the making of determiantions as to whether the individual had actually suffered from such a condition: (1) by requiring that he or she must have received recognized treatment or participated in a program of rehabilitation for the condition and (2) by authorizing the Administrator to prescribe regulations specifying what specific types of treatment would be recognized for this purpose and what forms of rehabilitation programs would be qualifying. Thus, the Administrator would have the authority to make reasonable determinations as to participation in which programs—such as those offered by Alcoholics Anonymous or other treatment source—would qualify an individual for eligibility under the tolling provisions.

Finally, the provisions would limit the length of any extension period to the period of time equal to the length of time that the individual partcipated in a program of treatment or rehabilitation for the condition plus the period during which the individual was able to demonstrate to the satisfaction of the Administrator that the condition prevented pursuit of a program of education or rehabilitation. However, in no event, could the extension exceed 4 years. Thus, the Committee bill would address concerns that an individual would be able to obtain an extremely long period of tolling the applicable delimiting period.

The Committee also notes that the amendments proposed by the Committee bill would make provision for the measurement of the extension period in a manner identical to that provided for extensions on account of disabilities under current law. That is, the delimiting period would again begin to run—after being tolled—on the first day on which the Administrator determines it is reasonably feasible for the individual to begin training.

In addition, under the amendments made by the Committee bill, the period of time for an individual to file an application under this authority for an extension of the delimiting period would be limited. Applications would be required to be filed within one year after whichever is the latest of the date on which the delimiting period would have otherwise expired, the date on which the last period of rehabilitation or treatment for the condition was terminated, or the date on which final regulations to implement the proposed extension authority are published.

In sum, the Committee stresses that it believes that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. Thus, the Committee is proposing the enactment of this provision in a form that is designed as clearly as possible to avoid this issue and hence enhance the prospects for enactment of this legislation.

TITLE III: VETERANS' EMPLOYMENT AMENDMENTS

Background

The history of the Veteran's Employment Service (VES) in the Department of Labor closely parallels that of the public employment system in the United States. The establishment of the national employment service officially occurred with the enactment of the Wagner-Peyser Act of 1937, which included provisions establishing a veterans' employment service.

At the end of World War I, existing Federal employment agencies had the enormous task of finding work for the returning servicemen. As a result, numerous employment bureaus for veterans were established to expedite job placement for returning servicemen.

In 1933, a time of economic standstill and massive unemployment, President Franklin Roosevelt signed into law the Wagner-Peyser Act, Public Law 73-30. The act created in the Department of Labor the United States Employment Service, a national system of public employment office. Maintenance of a Veterans' Service was a part of that service.

Following the end of World War II, the Nation was again faced with major unemployment problems. A major provision of Public Law 78-346, the Servicemen's Readjustment Act (popularly known as the GI Bill of Rights), approved on June 22, 1944, established a job counseling and employment placement service for veterans in the U.S. Employment Service. This provision expanded the responsibilities of the Veterans' Employment Service. During the 5 years from September 1944 to August 1949, nearly 10 million veterans were served in local public employment offices.

On July 16, 1952, the Congress enacted Public Law 82-550, known as the Veterans' Readjustment and Assistance Act of 1952. This act extended the same benefits to Korean veterans as were afforded World War II veterans. Title VI of the act granted Korean veterans, who had served between June 26, 1950, and February 1, 1955, preference in job counseling and placement.

Public Law 89-358, the Veterans' Readjustment Assistant Act of 1966, enacted on March 3, 1966, extended to veterans who served after January 31, 1955, VA educational assistance and job counseling and job placement in the Department of Labor.

The decade of the 1970's saw an increase in legislation to provide employment assistance to disabled and Vietnam era veterans. The 92nd Congress, on October 24, 1972, enacted the Vietnam Era Veterans' Readjustment Assistance Act (Public Law 92-540) to aid veterans of the Vietnam era (August 5, 1964, to May 7, 1975). The act extended priority for employment counseling, job training, and placement services to Vietnam-era veterans, and also added positions to the VES field staff. Many amendments to this act have been made since its enactment in 1972. The Vietnam Era Veterans' Readjustment Assistance Act of 1974, Public Law 93-508, extended veterans' employment services to spouses and widows of totally disabled veterans, prisoners of war, and servicemen missing in action; it also required the Secretary of Labor to implement stringent administrative controls to ensure the delivery of preferential services to veterans.

Public Law 93-567, the Emergency Jobs and Unemployment Assistance Act of 1974, enacted that same year, expanded the functional responsibilities of the Veterans' Employment Service. Section 104(b) of the act required that the Department of Labor, in cooperation with the Department of Health, Education and Welfare and the Veterans' Administration, implement an outreach and public information program designed to inform and involve all eligible veterans in employment, job training, and educational opportunties. It was funded under the Comprehensive Employment and Training Act (CETA), Public Law 93-203.

Other legislation which significantly affected the basis and organization of the VES is the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502). Title VI of that act established the position of the Deputy Assistant Secretary for Veterans' Employment (DASVE), to be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to the extent that they affect veterans. In conjunction with the creation of the position of DASVE, the Veterans' Employment Service (VES) was made an autonomous program in the Employment and Training Administration of the Department of Labor.

Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980, elevated the position of DASVE to the level of Assistant Secretary for Veterans' Employment (ASVE). In so doing, the Congress intended that the ability of the VES to effectively deal with problems relating to veterans' employment would be dramatically improved. As "the principal advisor" to the Secretary of Labor regarding veterans' affairs, the ASVE would be at the same level and have the same attention and importance within the Department of Labor as the other Assistant Secretaries.

The Veterans' Employment Service (VES), under the direction of the Assistant Secretary for Veterans' Employment, is responsible for ensuring that the legal mandate and the policies of the Secretary of Labor and the United States Employment Service are carried out by the local public employment service offices. VES has a field staff of regional and State directors and Assistants for veterans' emplyment who are responsible for providing functional supervision to State employment services helping, to ensure that legal and policy requirements for veterans' services are maintained effectively. In addition, State employment services have local veterans' employment representatives (LVER's) who provide functional supervision to local employment service/job service offices. The United States Employment Service and State employment services have cooperative agreements with the Veterans' Administration for providing services to veterans.

In January of 1977, the Department of Labor unveiled a three-pronged initiative designed to reduce the high rates of unemployment among Vietnam-era and disabled veterans. The three components of the initiative, which were part of the President's economic stimulus package, were the Help through Industry Retraining and Employment (HIRE) program, a 35-percent new-hire goal for Vietnam-era veterans in public service jobs under titles II and VI of CETA, and the Disabled Veteran Outreach Program (DVOP).

Under the DVOP program, nearly 2,000 disabled veterans were hired with Federal funds (totaling $26 million) by State employment security agencies (SESA's) in the spring and summer of 1977, assigned to local employment service offices. DVOP units were established in 100 of the Nation's largest cities with every State supplied with DVOP capability on a State-wide basis if it had no large cities.

The primary mission of the DVOP program is to identify disabled veterans in need of employment assistance and help them to obtain needed employment services, including counseling, job development and placement. The program's design is to locate and help find jobs for disabled veterans—primarily those from the Vietnam conflict—through the use of formerly unemployed disabled veterans working as DVOP staff, able to understand the needs of other veterans in the same predicament and serving as models to demonstrate to employers how well disabled veterans can work when given a chance.

DVOP staff receive both classroom and on-the-job training in local employment service offices to acquaint them with the full range of services available to veterans. They are taught to recognize a veteran-applicant's need for indepth career counseling or other services. In addition, DVOP staff are prepared to Provide veteran-applicants with information about educational, medical, employment, and social services available to them from the VA, CETA prime sponsors, vocational rehabilitation offices, and other public agencies and community services groups.

DVOP staff perform duties similar to those performed by the regular employment service staff but are required to concentrate their efforts only on disabled and other veterans. The program was so highly successful in the years 1977 to 1980, contributing to more than 135,000 job placements of disabled Vietnam-era veterans, that Congress made the Disabled Veteran Outreach Program permanent in Public Law 96-466, enacted in 1980.

The program, while one of the most successful initiatives to deal with unemployment experienced by veterans, has not been without its problems which the Committee bill seeks to address.

Committee Bill Provisions

Title III of the Committee bill would revise various provisions of existing law contained in chapters 41, 42, and 43 of title 38 to improve employment programs for veterans covered by those chapters.

Congressional Findings and Purpose

In section 301 of the Committee bill, the Committee proposes the Congress' findings relating to the high level of unemployment which currently exists among disabled and Vietnam-era veterans and makes clear that these problems are a national responsibility, appropriately responded to by Federal programs established within the Department of Labor and specifically administered by the Assistant Secretary of Labor for Veterans' Employment (ASVE). The Committee believes all veteran employment programs should be concentrated within the jurisdiction of one office so that accountability and coordination are maximized. The Committee bill would require the ASVE to issue regulations promulgating the policies of veterans' employment programs so that those policies may be more readily communicated to and understood by the large number of persons affected. In addition, the Committee bill would require that, in connection with the provision of maximum employment and training opportunities, priority be given to the needs of disabled veterans and veterans of the Vietnam era.

State and Assistant State Directors of Veterans' Employment Service

The Committee bill contains a series of provisions designed to ensure maximum efficiency of State and Assistant State Directors for Veterans' Employment (SDVE's and ASDVE's respectively). In 1980, title 38 was amended to provide that SDVE's be assigned full-time clerical support. This amendment in Public Law 96-466 grew out of concerns relating to a proposal to eliminate direct Department of Labor clerical support for the SDVE's and, instead, to have such support provided by the States through the employment service. The Committee bill, in light of continuing concerns that such support could be eliminated, would clarify that this clerical support is to be provided full-time Federal employees assigned directly to the SDVE's.

Second, the Committee bill would provide the Secretary of Labor, through the ASVE, the authority to waive the 2-year residency requirement applicable to SDVE's and ASDVE's. In this regard, the

Committee bill would provide that if, after a good faithful search within the State for an eligible veteran for appointment as an SDVE or ASDVE, it is determined that no candidate is available, an ASDVE who had served in another State for at least one year could be appointed to fill the position.

The Committee bill has sought a compromise in response to this issue that has been raised. On the one hand, advocates of the 2-year residency requirement feel strongly that someone unfamiliar with state employers and local employment opportunities cannot adequately represent that State's veterans as an employment director and, therefore, is not qualified. On the other hand, advocates of modified residency requirement point out that sometimes an in-state search does not produce a qualified candidate, and a candidate who has already served as an Assistant State Director would provide an opportunity for career mobility for that group as well as a person who has documented qualifications. The Committee intends to provide flexibility to allow the ASVE to appoint an assistant director from another State if that is the most qualified individual, but makes the decision a matter of his professional judgment.

In addition, the Committee bill would add a series of new responsibilities to those currently ennumerated in title 38 for SDVE's and ASDVE's. These new duties include responsibility for (1) supervising of job listings and referrals of qualified veterans to job vacancies; (2) ensuring that complaints of discrimination filed pursuant to section 2012 of title 38 are resolved in a timely fashion; (3) working with the VA to assist employers in identifying veterans enrolled in chapter 31 vocational rehabilitation training; (4) working with vet centers to identify and assist veterans with readjustment problems who need employment and training assistance; and (5) assisting Federal and State agencies and private employers in acquiring prosthetic and sensitory aids to enhance disabled veterans' employability. Finally, the Committee bill would make an amendment in existing law reflecting anticipated changes in other Federal employment and training legislation, by deletion of references to the Comprehensive Employment and Training Act.

Disabled Veterans' Outreach Program Amendments

The Committee bill contains a series of amendments designed to make improvements in the administration and operation of the Disabled Veterans' Outreach Program (DVOP) now conducted under the authority of section 2003A of title 38. Pursuant to subsection (e) of that section, the Secretary is to administer this program through the Assistant Secretary for Veterans' Employment.

First, the Committee is aware of serious funding and administrative problems that have developed in connection with DVOP. These have primarily arisen as a result of the fact that the program is presently funded out of the Grants-to-States Account (which consists of funds most of which come from a special employer tax known as Federal Unemployment Tax Act (FUTA)) within the Department of Labor, and the fact that, until recently, the ASVE did not have direct day-to-day authority over the program. The Committee understands that the Department has decided to transfer

DVOP to the Office of the ASVE and anticipates that some of the current problems will be ameliorated by that decision. In addition, in connection with the funding of the program, the Committee bill would amend existing law to provide that no provision of any other law or regulation that is not consistent with the provisions establishing DVOP would govern the funds made available by the Department of Labor for DVOP. Thus, without jeopardizing the mandatory nature of the program, the Committee bill would provide that the program would not be subject to restrictions on funding that would be inconsistent with the DVOP authority.

Second, the Committee bill would make clear that funds for DVOP are provided for use in States and not necessarily directly to States. Under existing law, the Secretary is required to make available funds to the States, directly or through grant or contract, to support a mandated level of DVOP specialists. When enacted, the Committee notes that the Congressional intent was to permit the provision of funds either directly to a State or to a contractor within a State. However, the Department of Labor has interpreted the phrase "to the States" to mean that funds may be provided only to the States. The Committee bill would clarify that DVOP funds are made available for use in the States and would thus clearly permit the Department of Labor to enter into contracts within States for the purposes of carrying out the DVOP mission.

Third, the Committee bill would provide a waiver authority in connection with the current-law requirement that 25 percent of DVOP specialists within a State be outstationed—that is stationed at locations other than local employment service offices. The Committee bill, however, would require that such waivers could be made on an individualized State-by-State basis only so long as the national percentage of DVOP specialists outstationed was not less than 20 percent. The Committee is sympathetic to concerns that in some areas a requirement that one-quarter of the DVOP specialists in a State be outstationed may be unworkable. However, the Committee remains convinced of the merit of outstationing DVOP specialists. This provision of the Committee bill would, therefore, permit flexibility within the States when it is necessary, but would also protect the worthwhile goal that DVOP specialists continue to carry out activities in locations such as Vet Centers, VA regional offices and medical centers, and other appropriate sites.

Fourth, the Committee bill would add a new responsibility to those presently enumerated for DVOP specialist. That new responsibility would involve the development of outreach programs—in cooperation with the VA's vocational rehabilitation staff, institutions of higher learning, and employers, in order to assure that maximum assistance is provided to service—connected disabled veterans who are enrolled in or who have completed programs of vocational rehabilitation training. In addition, the Committee notes that it expects DVOP specialists to continue to work closely with prime sponsors and other grantees under the Comprehensive Employment and Training Act and, in the event that other Federal employment and training legislation is enacted, with programs and grantees under such successor legislation.

Fifth, the Committee bill would make a series of non-substantive technical and conforming changes to the existing DVOP authority.

These changes would include the deletion of current subsection (d) of section 2003A that had been intended to provide for the transition of DVOP specialists from the program as previously conducted under the Comprehensive Employment and Training Act authority to the program as required to be conducted under the title 38 authority.

Finally, provisions of the Committee bill would require that the Secretary of Labor include in the annual report required to be submitted to the Congress a report on the activities under the DVOP authority. In addition, it would require that, in estimating the funds necessary for the proper and efficient administration of the Department of Labor's title 38 responsibilities, the Secretary, through the ASVE, include in the total estimate an amount sufficient to support the statutorily-mandated level of DVOP specialists. This total estimate is, as provided in current law, to be submitted as a special item in the annual budget for the Department of Labor.

Applicability of Chapter 42 Programs

The Committee bill, by amending the definitions applicable to chapter 42, would specify that the U.S. Postal Service and the Postal Rate Commission are subject to the requirements of that chapter. These requirements include those related to the affirmative action obligations and mandatory listing of jobs by Federal contractors in section 2012 and those related to the filing of affirmative action plans by Federal entities for hiring, placement, and advancement of disabled veterans in section 2014(c).

Reports of Contractors on Veterans' Employment Emphasis

Under existing law, Federal contractors doing business with the government in amounts of $10,000 or more, and subcontractors, are required to take affirmative action to employ and advance in employment qualified service-connected disabled veterans rated 30-percent or more disabled and Vietnam-era veterans. Until earlier this year, such contractors were required by regulation to file quarterly reports on their compliance with this provision. At that time, it was decided to delete the requirement for those quarterly reports as they posed a significant burden on employers. The Committee is concerned about unduly burdensome requirements imposed on employers. However, it is likewise concerned that some means of reporting on the activities required by section 2012 be maintained. Thus, the Committee bill would require such contractors to report annually. It is the Committee's intention that these annual reports be coordinated with annual reports such contractors are presently required to file with the Joint Reporting Committee (an Equal Employment Opportunity Commission-Department of Labor entity) on the composition of their labor force by ethnic group, sex, and job category. By coordinating these reports, the impact on the employer would be minimized.

Jurisdiction of Assistant Secretary of Labor for Veterans' Reemployment Rights

At present, jurisdiction for the authorities relating to reemployment rights for veterans lies within the Office of Veterans' Reemployment Rights in the Labor-Management Services Administration in the Department of Labor. The Committee bill would transfer to the Office of the ASVE the responsibility for the provision of assistance under this authority.

The Committee is proposing this transfer of responsibility in keeping with its belief that all programs affecting veterans should be centralized in one office within the Department of Labor. The Committee believes that such centralization enhances services to veterans and is consistent with the purposes for establishing an Assistant Secretary for Veterans' Employment to serve as the principal advisor to the Secretary on all matters relating to veterans' employment and training issues.

Repeal of the Exemplary Rehabilitation Certificates Program

Public Law 90-83 established a program known as the Exemplary Rehabilitation Certificates (ERC) Program. Under this authority, veterans who had received general or other than honorable discharges could earn an ERC. The Secretary of Labor may issue an ERC to a veteran if it is established that the individual has been rehabilitated and that the person's character, conduct, activities, and habits since discharge have been exemplary for at least a three-year period. The issuance of an ERC does not change the character of a discharge in any way, and thus does not provide eligibility for any new benefits, entitlements, or services otherwise denied because of discharge status.

From its inception in 1967 through calendar year 1981, 2,704 applications for ERC's have been received and 1,339 have been issued. In calendar year 1981, there were 78 ERC's issued. According to the Department of Labor, research has shown that certificate recipients have received few, if any, benefits in seeking and retaining employment as a result of the ERC; only 11 percent reported that the certificate helped them.

In response to the request from the Department of Labor asserting that the ERC program is administratively burdensome, the Committee bill would repeal the authority for the program. The Department advises that this would permit better utilization of one-half of a professional position and one-half of a clerical position and save about $5,000 a year in miscellaneous printing and supplies.

TITLE IV: MISCELLANEOUS IMPROVEMENTS

Expansion of Categories of Persons to Whom Life Insurance Proceeds May Be Assigned

Under current law, although the insured veteran may designate any person as a beneficiary, sections 718 and 753 of title 38 provide that only certain close relatives of the insured veteran may be assigned, by a beneficiary, an interest in the proceeds of a National

Service Life Insurance (NSLI) policy (section 718) or United States Government life insurance (USGLI) policy (section 753). For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents. The class for USGLI assignment encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured.

The current restrictions on assignments are administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may direct payment only to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases and helps to assure that the proceeds are paid directly to a person closely related to the deceased veteran.

Occasionally, however, in NSLI and USGLI cases, there is a contest between two or more persons as to the identity of the last designated beneficiary. Those contests may involve an individual to whom an assignment is not possible, such as a former spouse with custody of children of the veteran or a close friend.

A settlement of the dispute can occasionally be facilitated by cross-assignments of the policy proceeds by each claimant to the other, that is, by the claimants' agreement that each shall receive part of the proceeds. In such cases, the liability of the Federal Government is fully discharged. However, under current law, no assignments are lawful, as has been noted, unless the assignee is within the categories of family members of the insured veteran specified in sections 718 (NSLI) and 753 (USGLI). Thus, for example, when a dispute over proceeds results from the fact that the veteran exercised his or her right to change the beneficiary without notice to the prior beneficiary, and the last-named beneficiary concedes that the prior beneficiary should receive all or part of the proceeds, an assignment cannot be made, regardless of the merits of the claim or the wisdom of the proposed assignment, unless the prior beneficiary is a specified family member. The result is that litigation may ensue.

Section 401 of the Committee bill would provide for a limited expansion of the classes of persons to whom all or part of the proceeds of a NSLI or USGLI policy may be assigned.

Under this provision, such assignments could be made to certain other persons who are not within the classes of specified close relatives: Any person who was ever designated by the insured veteran as a beneficiary, any person with whom the insured veteran had contracted to designate as the beneficiary, and any person whom a court ordered the insured veteran to designate or retain as the beneficiary. In this way, an assignment would be authorized only to a person whose claim to the proceeds was based on one of the specified legal relationships with the veteran prior to the veteran's death. These requirements are designed to provide limited authority for assignments that would cover the common types of cases identified by the VA as involving disputes that could appropriately be resolved by assignments.

Under these provisions, in any case where the proceeds are to be paid other than in a lump sum, any such assignment must be joined in by the designated contingent beneficiary, if any, if the assignor is a person upon whose death or disqualification the contingent beneficiary's claim to the proceeds would be predicated. This would provide a further safeguard against the abuse of the power to assign and is similar to a provision in current law regarding assignments to specified members of the insured veteran's family.

Thus, these carefully limited provisions are intended to facilitate the resolution of disputes without opening the door to abuse of these VA insurance programs.

These provisions are similar to provisions passed by the Senate on August 6, 1980, as a part of Committee substitute S. 2649, and on August 3, 1979, as a part of H.R. 2282. They are also similar to the provisions contained in S. 2388, a bill introduced by the Chairman at the administration's request on April 15, 1982.

Removal of time restriction for filing insurance claims

Under current law, when a Servicemen's Group Life Insurance or Veterans' Group Life Insurance claim is not filed within 4 years of the insured's death, section 770(c) of title 38, United States Code, provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d) of title 38. The intention of this provision is unclear, especially when viewed in light of similar provisions dealing with other government insurance programs, including National Service Life Insurance (NSLI) and United States Government life insurance (USGLI).

Both NSLI and USGLI programs specifically prohibit the escheat of proceeds to a state. It appears that a similar prohibition was intended in section 770(c) concerning SGLI and VGLI policies. As written, however, section 770(c) also appears to bar payment of proceeds to otherwise entitled claimants whose claims are not filed within the four year period. It is unclear whether this bar was intended. No such bar exists under the NSLI or USGLI programs.

The VA has informed the Committee that, to date, no claims for SGLI or VGLI have been made beyond the four year period. Therefore, there have been no claims denied as a result of this language.

However, the Committee, in reporting this legislation, seeks to clarify section 770(c) to ensure that no claims are denied in the future for failure to file wthin 4 years of the death of the insured. In addition, the Committee seeks to make the escheat prohibition provision of the SGLI-VGLI program consistent with the NSLI and USGLI programs.

Burial Benefits For Certain Indigent Veterans of Wartime Service

Background

Last year, pursuant to the requirements in the first concurrent resolution on the budget for fiscal year 1982 that the House and the Senate Veterans' Affairs Committees recommend legislative savings totalling $110 million in fiscal year 1982 and slightly less in fiscal years 1983 and 1984, the Committees recommended certain limitations on the Veterans' Administration $300 burial benefit. Subsequently, the Congress approved legislative as part of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) to restrict eligibility for this burial allowance to veterans who at the time of death are in receipt of either VA compensation or VA nonservice-connected disability pension. Previsously, this benefit was paid for any veteran who was entitled to compensation, who had been discharged from active service for a service-connected disability, or who had served during a period of war. This restriction was made effective with respect to deaths occurring after September 30, 1981. No restrictions were placed on either the $150 plot allowance or on the $1,100 burial benefit payable for a veteran who dies from a service-connected disability.

According to the Congressional Budget Office, cost-savings resulting from the enactment of this legislation were estimated to be $75.2 million in fiscal year 1982, $79.8 million in fiscal year 1983, and $84.4 million in fiscal year 1984. The Committees adopted this approach because it believed that it was preferable to make the bulk of the required savings by pruning this benefit—rather than benefits for living persons—in a manner that is consistent with the priorities placed on veterans with service-connected disabilities and needy veterans of wartime service.

The 1981 Senate-passed provision, upon which the provision contained in Public Law 97-35 was based in part, retained eligibility for wartime veterans who, even though not in receipt of pension, would have met the VA pension income standards. This eligibility for so-called "pension-income eligibles" was dropped in negotiations with the House because of the disproportionately high administrative cost that the VA stated would be associated with making income determinations retroactively. In fact, if this eligibility had been enacted, the VA advised that the total administrative costs for it would have exceeded the total amount of benefits paid on this basis since each claim filed for benefits on the grounds of an individual being pension-income eligible would have to be developed in spite of the fact that few were expected to be paid.

Committee Bill Provisions

The Committee is concerned by reports that there are a relatively small number of impoverished wartime veterans who are not in receipt of VA need-based pension and are thus ineligible for the burial benefit under existing law and who are at risk of a pauper's burial at local Government expense when they die. Based on data furnished by the VA, during the period October 1, 1981, through July 31, 1982, there were reported cases of 115 such veterans nationwide who died and for whom the burial benefits were not paid as a result of the provisions enacted last year.

The Committee does not believe that any destitute wartime veterans should be denied a decent funeral. The intent mirrored in the provisions enacted last year by preserving eligibility for VA pensions was to provide for those who are needy. With respect to those destitute wartime veterans who—for various reasons such as not meeting the total disability requirement, failure to meet the 90-day service requirement, or failure to make application—are not in receipt of VA need-based pension, the Committee believes that a cost-effective and compassionate approach to providing this benefit is possible.

Thus, section 403 of the Committee bill incorporates provisions derived from S. 2048, as introduced by Senator Cranston, which would amend chapter 23 of title 38 to provide that a deceased veteran of war would be deemed to have been in receipt of pension and consequently eligible for the $300 burial benefit if a State, county, or city certifies to the VA that no next of kin or other person has claimed the veteran's body, has assumed the responsibility for the burial and funeral expenses of the veteran, and that the amount of funds or resources available to it from other sources is insufficient to cover the burial and funeral expenses. In these cases, the State or political subdivision would be paid the lesser of the $300 or the cost of the burial and funeral expenses it actually incurred last year. In addition, the Committee bill would similarly restore benefits in the cases of peacetime veterans who had been discharged or released from active military, naval, or air service for a service-connected disability who are not in reciept of VA compensaton or military disability retirement.

It is important to stress that this provision, which does not restore benefits across-the-board and thus provide for the benefit of those who are not needy, addresses the problem of needy, destitute wartime veterans in an equitable and cost-effective manner. Unlike the pension-income eligible criteria described above, it avoids the administrative cost associated with the VA making determinations of deceased veterans' incomes since the VA would rely on State or local certifications regarding the deceased veteran. Thus, the provision in the Committee bill would help ensure at a minimum cost—estimated to be less than $1 million in any fiscal year—that VA burial benefits continue to serve the primary purpose for which they were enacted: the assurance that wartime veterans who served the Nation in its hours of need are finally laid to rest with the dignity they earned.

Guaranteed Loans to Refinance Liens on Manufactured Homes and to Purchase Manufactured Home Lots; Change in Nomenclature

Under existing law, veterans may use their VA home-loan guaranty benefits for the purchase of manufactured or mobile homes (herein after referred to as "manufactured homes"), the purchase of lots on which to place such homes, or to purchase simultaneously such homes and lots. In addition, a veteran may refinance an existing loan made, guaranteed, or insured by the VA under certain circumstances in order to obtain a more favorable rate of interest on a loan. However, unlike the VA home-loan guaranty program applicable to conventionally-built homes, veterans may not use their VA home-loan guaranty benefits to refinance existing, VA- or non-VA-guaranteed loans secured by a manufactured home except as provided for in the case of the refinancing of existing VA-loans in order to obtain a lower rate of interest.

The absence of a provision for the use of a VA-guaranteed-loan entitlement to refinance a loan secured by a mobile home has precluded veterans from using their guaranty entitlement in certain situations in which the Committee believes that such opportunity should be provided. For example, a veteran may have an existing loan on a manufactured home which is not guaranteed by the VA. That home may be, and often is, located on a lot which is rented, for example, in a mobile home park. The VA has advised the Committee that a significant number of rental mobile home parks are being converted into either a condominium or planned unit development form of ownership. When a park is so converted, the owners of the home units located within the park must either purchase the lots on which their units are located or move their units to a new location at their own expense.

Lenders are often unwilling to finance the purchase of such a lot—either a lot converted or a new lot—unless a full security interest in the manufactured home unit is provided to the lender. Under these circumstances, a veteran is usually precluded from using his or her VA home-loan entitlement to purchase a lot because current law does not generally permit refinancing of existing loans.

Thus, the provisions of sections 404 (a) and (b) of the Committee bill would amend title 38 in order to authorize the VA to guarantee loans for the purposes of simultaneously refinancing existing liens on a manufactured home and purchasing a lot on which to place such a home. Under the provisions of the Committee bill, the new VA-guaranteed loan would be required to be secured by the same manufactured home, occupied as the veterans' home, as the loan being refinanced. The amount of the new loan may not exceed an amount equal to the sum of the purchase price of the lo [illegible] necessary site preparation costs, the balance of the loan being refinanced, and authorized closing costs. If the loan being refinanced was guaranteed, insured, or made by the VA, the amount of the new loan being applied to pay off the prior one would be guaranteed without regard to the amount of the veteran's remaining VA-home-loan guaranty entitlement, and the veteran entitlement would not be charged with respect to that portion of the new loan. Further, the Committee bill provisions would specify that there is no prohibition against the veteran paying a reasonable discount required by a lender when the proceeds of a loan are used for these simultaneous purposes.

In addition, section 404(c) of the Committee bill would make a series of nonsubstantive amendments to all relevant sections of chapter 37 of title 38 to change the term "mobile home" to "manufactured home" wherever it appears. The change is in name only and will bring the nomenclature of chapter 37 into conformity with the National Housing Act, as amended by section 308(c) of the Housing and Community Development Act of 1980 (Public Law 96-399). The Committee stresses that this change in nomenclature is not intended to expand or modify the coverage of section 1819 in any way, nor to make any other substantive changes.

Period for Request of Overpayment Waiver

Under current law an individual who has been notified of a Veterans' Administration overpayment or debt is allowed 2 years from the date of notification of such overpayment or debt to request a waiver of repayment. Authorization was originally given to the Administrator to grant waiver requests in order to avoid recovery of overpayments and debts when such recovery would be against equity and good conscience. The 2-year period was originally provided in order to give an individual who owes money to the VA the same amount of time to request a waiver as given to overpaid Federal employees. However, the VA has informed the Committee that in its efforts to address an increasingly critical overpayment problem it has been hampered by this 2-year period for waiver request.

The Committee strongly believes that provision should continue to be made to insure that in circumstances where recovery of the overpayment would be against equity and good conscience, an individual has sufficient opportunity to request a waiver. The Committee believes, however, that a period of 180 days is generally sufficient to accomplish this purpose.

Despite its belief that 180 days is sufficient time for an individual to file a request for waiver, the Committee is concerned that in rare instances an individual, through no fault of his or her own, may not receive timely notification of his or her indebtedness. Thus, the Committee has provided authority to the Administrator of Veterans' Affairs to waive the 180-day period requirement if the individual can demonstrate to the satisfaction of the Administrator that notification of an indebtedness was not actually received. The Committee stresses that in such instances the burden of demonstrating that notice of indebtedness was not received in a timely fashion rests with the individual. Thus the Committee's intention is not to require a costly notification process but rather to permit the Administrator, when circumstances warrant it, to extend the 180-day requirement.

Minimum Active-Duty Service Requirements for Benefits Eligibility

On September 7, 1980, section 977 of title 10, United States Code, was enacted—in the Department of Defense Authorization Act, 1981 (Public Law 96-342)—to establish a general 2-year minimum-service requirement for eligibility for any federal "benefit, right, or privilege" based on active-duty service for those who originally enter the service after September 7, 1980.

Last year, in section 604 of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, enacted on October 17, as Public Law 97-66, Congress enacted as section 3103A of title 38 a provision that superseded—by replacing and modifying—section 977 with respect to eligibility for all benefits under title 38 or under other laws administered by the Veterans' Administration.

In the House and Senate deliberations on the title 38 provision last year, three major problems in section 977 of title 10 (hereinafter referred to as "section 977") were identified and resolved in the title 38 provision with respect to title 38 and VA benefits.

First, section 977 applies only to enlisted personnel in the Armed Forces; it does not apply to military officers or to commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration. With respect to title 38 and VA benefits, section 3103A of title 38 established a 2-year minimum-service requirement applicable to these officers as well as to enlisted personnel.

Second, section 977 made ineligible a 2-year enlistee who is discharged under section 1171 of title 10, which allows the Armed Forces to discharge a person from active service for the convenience of the Government up to 90 days prior to the expiration of that person's enlistment. The title 38 provision provided an exemption for those who receive such discharges.

Third, section 977 provided an exemption for those who have any service-connected disability, even those that are so minor as not to be rated even 10-percent disabling. The title 38 provision limited the exemption for those with service-connected disabilities to those who have compensable disabilities.

These changes with respect to title 38 and VA benefits, enacted in section 3103A of title 38, were designed to produce a fairer, more equitable minimum-service requirement.

However, in enacting in title 38 a replacement minimum-service requirement with these improvements, the Congress established one set of rules for title 38 benefits and other VA benefits while leaving in place the other set in section 977 for all other benefits provided under federal law based on active-duty service.

In order to provide for a more uniform set of rules, section 406 of the Committee bill, which is derived from Amendment No. 1909, submitted on June 30, 1982, by Senators Simpson and Cranston, would amend section 3103A of title 38 to provide a minimum-service requirement—superseding section 977 entirely—for federal benefits other than those that are provided under title 38 or administered by the VA, as well as for those that are. This provision of the Committee bill would parallel the policies in the existing title 38 provision and thus would make the same three major improvements, as discussed above, that the title 38 provision made last year in the rules governing title 38 and VA benefits eligibility.

The Committee bill would also make certain other clarifications and minor adjustments in the minimum-service requirement for non-VA/non-title 38 benefits. First, it would clarify, consistent with the Social Security Administration's interpretation of section 977, that the only Social Security Act benefit affected by the minimum-service requirement is that provided under section 229(a) of the Social Security Act, under which active-duty personnel are deemed to have been paid additional wages of $100 for each $300 of military pay, up to a maximum of $1,200 per year in deemed wages. "Earned" social security credits—those based on actual employment and wages and for which social security tax is paid—would be expressly exempted from the minimum-service requirement under the Committee bill.

Second, the Committee bill would clarify that the only civil service provisions affected by the minimum-service requirement are the so-called "veterans preference" provisions other than those for veterans with comparable, service-connected disabilities. It should be noted that those who entered the service after September 7, 1980, and have no service-connected disability do not qualify for veterans preference at the present time; they may qualify in the future only if they serve during a war or in a campaign or expedition for which a campaign badge is authorized. Thus, as with the minimum-service requirement in section 977, the Committee bill would affect non-disabled veterans only in the event of some future outbreak of hostilities involving the United States Armed Forces.

With respect to the calculation of length of federal service for purposes of retirement credits and the rate at which annual leave is accrued, the Committee bill would specify that active-duty personnel would not be barred by the minimum-service requirement from receiving credit for any period of time actually served on active duty.

The minimum-service requirement proposed in the Committee bill would expressly exclude unemployment compensation for ex-servicemembers (UCX) from the scope of the minimum-service requirement. The UCX provisions, set forth in subchapter II of chapter 85 of title 5, United States Code, contain a specific minimum-service requirement that has been amended twice in the past 2 years—in section 415 of Public Law 96-364 and section 2405 of Public Law 97-35—and a further amendment is pending in a House-Senate conference on H.R. 4717, a bill that relates to a variety of matters within the jurisdiction of the Finance Committee. In view of this very recent and continuing Congressional focus specifically on the UCX minimum-service requirement, the Committee believes that it is preferable at this point for the issues related to that requirement to be addressed in legislation specifically dealing with that benefit. Thus, the Committee bill specifically excludes application of the proposed title 38 provision to the UCX program.

In preparation for the Committee's August meeting to consider the provisions of the Committee bill, the Chairman wrote to the agencies that the Committee understood to be administering programs under which veterans have, in the terms of section 977, a "benefit, right, or privilege" to obtain information regarding the agencies' application of section 977 and their comments on Amendment No. 1909.

In response, the Secretary of Health and Human Services stated in an August 19 letter:

> Since the deemed military wage credits authorized by the Social Security Act are the only benefits administered by the Department [of Health and Human Services] that are now affected by the minimum service requirement [in section 977], we would have no objection to the adoption of Amendment No. 1909 insofar as it directly affects this Department.

In an August 6 response, the Secretary of Defense stated:

> The Department of Defense administers benefits programs for active and retired personnel and their dependents. Personnel who are discharged or who have otherwise severed their service connections are not the intended beneficiaries of these programs. Accordingly, the Department does not administer benefits to which section 977 of title 10 applies. . . .
>
> For the reasons stated above, the Department of Defense has no objection to Amendment No. 1909. . . .

The Director of the Office of Personnel Management, in an August 18 letter responding to the Chairman's request regarding the OPM interpretation of section 977, stated with respect to veterans preference:

> OPM's General Counsel has determined that title 5, rather than title 10, governs the application of veterans' preference in Federal employment. Veterans' preference is

> a provision of law which governs Federal employment. Accordingly, it is not in the same category as the broad range of programs, services, and benefits that the VA administers under titles 10 and 38 such as death benefits, hospitalizations or pensions. Veterans' preference is a separate body of law with its own history and eligibility requirements and is codified in title 5, United States Code, rather than in titles 10 or 38, United States Code. Essentially, this is because veterans' preference provisions are different from the veteran entitlement provisions in titles 38 and 10, U.S.C.

The Committee is unable to discern the basis for the OPM General Counsel's view that secton 977 of title 10 has no applicability to veterans' preference provisions in title 5. By its terms, section 977 requires the denial of eligibility "for any right, privilege, or benefit . . . under any Federal program" by reason of active-duty service in the cases of those who originally enlist after September 7, 1980. It is clear to the Committee that this provision was intended to apply to non-title 10 programs. Indeed, as the Department of Defense has advised and contrary to the implication in the OPM letter, there are no title 10 programs within the ambit of section 977. Thus, if the applicability of section 977 were limited to title 10 programs, it would have been a nullity—clearly not what the Congress had intended. Moreover, the Department of Health and Human Services applies section 977 to a Social Security Act benefit.

With respect to the implication in the OPM letter that section 977 has some applicability outside title 10, that is, to title 38 programs, the Committee is unable to comprehend the OPM General Counsel's position that section 977 has an impact on title 38 programs but not on title 5 programs. In the Committee's view, the term "any right, privilege, or benefit . . . under any Federal program" covers the preference provisions in title 5 as clearly as it does the range of benefits provided under title 38.

In order to gain a fuller understanding of the OPM position regarding the applicability of secton 977, on August 18, Committee staff requested OPM staff and OPM staff agreed to provide an OPM General Counsel opinion on this question. To date, none has been received.

Under these circumstances, the Committee, taking into account the breadth of the language in section 977, is of the view that that provision does apply to the preference provisions of title 5.

With respect to the merits of Amendment No. 1909, the Director of OPM stated:

> This amendment would provide a two year military service requirement for veterans' preference eligibility in Federal employment. Current law does not have a minimum service requirement for eligibility for veterans' preference. Thus, the amendment limits the number of veterans who would be eligible for preference. OPM is opposed to this limitation on eligibility for veterans' preference. We therefore, propose that the veterans' preference provision in the 1909 amendment to S. 2378 be deleted, and that no limita-

tions be placed on current eligibility requirements for veterans' preference.

Since the OPM position on Amendment No. 1909 is premised on its view that current law does not impose a minimum-service requirement on veterans' preference eligibility—a view for which the Committee has been offered no legal support or analysis—the Committee is unable to give substantial weight to the OPM objections to the provisions of Amendment No. 1909. Rather, the Committee considers it advisable for the Congress to enact a provision to clarify the extent to which a 2-year minimum service requirement is applicable to title 5—as the Committee bill would, by expressly making the requirement applicable only to preference—and to make the same policy adjustments in the requirement as applied to the preference provisions of title 5 as were made last year in the requirement as applied to benefits under title 38 and under other laws administered by the VA.

The Commissioner of the Immigration and Naturalization Service in a July 20 letter—noting provisions of the Immigration and Nationality Act (INA) (sections 328 and 329 of the INA, 8 U.S.C. 1439 and 1440) that provide for certain naturalization benefits (including waiver of the length-of-residency requirement) based on service in the Armed Forces—stated that "it appears that amendment would have no impact or effect on [these] sections of the [INA]." This response seemingly failed to take into account the situations in which the provisions of section 977—and hence Amendment No. 1909—would require that non-citizen veterans who fail to satisfy the minimum-service requirement be denied the benefit of INA sections 328 and 329. Thus, on September 8, the Chairman wrote to the Commissioner to request clarifiction on that point; no response has yet been received.

The following is the September 8 letter from the Chairman to the Commissioner:

ALAN K. SIMPSON, WYO., CHAIRMAN
[illegible]

THOMAS E. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

September 8, 1982

Honorable Alan C. Nelson
Commissioner
Immigration and Naturalization Service
Department of Justice
Washington, D. C. 20536

Dear Al:

Thank you for your response to my request for comments on Amendment No. 1909 to S. 2378.

Your letter indicated that, in your view, this amendment will have no impact or effect on the provisions of the Immigration and Nationality Act (INA) -- sections 328 and 329, (8 U.S.C. §1439 and 1440, respectively) -- those related to immigration and naturalization benefits based on service in the Armed Forces of the United States. Your response did not directly address the question that I had asked regarding the applicability of present section 977 of title 10, United States Code, to those benefits.

Upon review of your response, I believe that certain clarifications are necessary with respect to the effects of section 977 of title 10 on the eligibility for such naturalization benefits of those to whom that section applies.

First, INA section 328 provides for the waiver of the residency requirement for one who has served in the Armed Forces at any time for a period or periods aggregating three years, and it is my understanding that that three-year service requirement has been interpreted as including periods of reserve status. Thus, it would appear that, in certain instances of individuals who originally enlist in a regular component of the Armed Forces after September 7, 1980, they may satisfy the requirement of INA section 328 through a combination of active duty and reserve status but, upon failing to complete 24 months of their enlistments, be subject to the bar to benefits set forth in section 977 of title 10. In such cases, would not section 977 preclude eligibility for the INA section 328 benefits?

Second, under INA section 329, it is my understanding that age and residency requirements are generally to be waived for individuals who serve in an active-duty status during any future period that the President by Executive Order designates as a period in which the Armed Forces of the United States are engaged in certain military operations involving armed conflict and who, if separated from such service, are separated under honorable conditions. In the cases of individuals to whom section 977 applies, who are separated under honorable conditions, but who fail to meet that section's 24-month service requirement, would not section 977 preclude eligibility for the section 329 benefit?

If your answer to either of the foregoing questions regarding the application of section 977 of title 10 is that its provisions would preclude eligibility for naturalization benefits under INA section 328 or 329, I would appreciate your reconsidering your position on the effects that the provisions of Amendment No. 1909 would have on section 328 and 329 benefit eligibilities and providing me with your further comments on the provisions of the amendment.

In light of the fact that the Committee is planning to file its report on legislation incorporating the provisions of Amendment No. 1909 by September 17, I ask that you make every effort to expedite your response to this letter.

As always, I greatly appreciate your cooperation.

With warm personal regards,

Sincerely,

Alan K. Simpson
Chairman

AKS/bng

In the Committee's view, the section 977 minimum-service requirement should apply to benefits under INA sections 328 and 329 and hence intends that section 406 of the Committee bill be so construed.

In an August 18, 1982, response, the Administrator of the Small Business Administration, an agency required by section 4(b)(1) of the Small Business Act (15 U.S.C. § 633(b)(1)) to give "special consideration to veterans and their survivors and dependents" in carrying out its programs, generally SBA-guaranteed loans and certain advice and advocacy services, noted that the SBA "affords veterans a preference in the processing of applications for participation in existing programs." But, the Administrator stated:

> At this time, however, no one becomes eligible for any SBA program solely by reason of serving on active duty in the Armed Forces. Therefore, the proposed amendment would not affect the SBA or the applicants to or participants in SBA programs.

The SBA analysis did not expressly address the issue whether the "special consideration" to which veterans are entitled from SBA is considered a "right, benefit, or privilege" under section 977 or Amendment No. 1909. Committee staff contacted the SBA Legislative Counsel's Office for clarification and received advice that such special consideration was not so regarded.

In the Committee's view, the entitlement to such special consideration is a significant benefit based on service to the Nation and should be made subject to the minimum-service requirement. Thus, the Committee bill would expressly so provide.

The Farmers Home Administration—which provides credit assistance and management advice for the improvement and operation of farms and is required, under section 507 of the Housing Act of 1949 (42 U.S.C. § 1477), to give wartime veterans and certain survivors a preference ahead of others applying for assistance—provided an August 19 response, stating that Amendment No. 1009 "would have no bearing on programs administered by the Farmers Home Administration."

As in the case of the SBA "special consideration" provision, the Committee is of the view that a wartime veteran's entitlement to a preference for Farmers Home Administration loan processing is a valuable benefit based on military service and should be made subject to the minimum-service requirement. Thus, the Committee bill would expressly so provide with respect to veterans of a future period of war.

The Department of Housing and Urban Development has not yet responded to the Chairman's request for views on Amendment No. 1909. The Department's Office of General Counsel did, however, provide information indicating that the only HUD programs that are affected by section 977 and would be affected by Amendment No. 1909 are the HUD mortgage insurance programs, under the National Housing Act (12 U.S.C. §§ 1701 *et seq.*), which provide for a higher loan-to-value ratio and lower downpayment for veterans purchasing or rehabilitating a home using a HUD-insured mortgage.

The minimum-service requirement proposed in the Committee bill would supersede section 977 with respect to eligibility for the above special veterans' provisions in the HUD mortgage insurance programs.

The Department of Labor has also not yet responded. However, it is the Committee's understanding that the majority of the Department's programs under which veterans are provided with benefits based on active-duty service are established in chapters 41, 42, and 43 of title 38, relating to veterans' job counseling and training, employment services, and remployment rights. These programs are already subject to the minimum-service requirement enacted last year as section 3103A of title 38, because that section applies to non-VA programs under title 38 as well as programs administered by the VA under title 38 and other provisions of law. Thus, the Committee bill would simply provide for the coverage under the proposed minimum-service requirement of any Labor Department non-title 38 programs providing benefits, other than UCX, based on active-duty service.

The full text of the agencies' reported on Amendment No. 1909 are set forth later on this report under the heading "AGENCY REPORTS".

Finally, the Committee notes that the Committee will be also provide—as did the minimum-service provision enacted last year as section 3103A of title 38 with respect to title 38 benefits and other VA benefits—that a veteran's dependent or survivor claiming a dependent's or survivor's benefit based upon the veteran's service would not be entitled to such benefit where the veteran would be denied benefits because of having failed to satisfy the minimum-service requirement. Thus, for example, as follows from the preceding discussion pertaining to SBA and civil service benefits, the survivors or dependents of a veteran who would be made ineligible for special consideration from the SBA would also be made ineligible for special consideration, and the surviving spouse of a veteran who failed to satisfy the minimum-service requirement would be made ineligible for preference in Federal employment.

Correspondence Training

The issues of terminating or reducing correspondence training benefits under the GI Bill have been the subject of Congressional action on a number of occasions over the past year. In the first session of the present Congress, section 2004 of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, reduced from 70 percent to 55 percent the portion of correspondence training costs that the VA pays. Subsequently, a proviso, which originated in the House Appropriations Committee, was enacted in the HUD-Independent Agencies Appropriations Act for fiscal year 1982, Public Law 97-101, stating that all funding would be eliminated for those benefits except with respect to individuals already pursuing correspondence training as of September 30, 1981. In response to this proviso, section 5(a) of Public Law 97-174, the Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, provided that, "except as may be provided by a provision of law enacted in express limitation" of the provision (section 1783(a)(1)) of title 38 creating such entitlement, funds in the VA's readjustment benefits account (from which GI Bill and certain other benefits are paid) shall be available for the payment of correspondence training benefits. Thus, upon the enactment of Public Law 97-174 on May 4, 1982, the appropriations proviso was nullified

This year again, the HUD-Independent Agencies Appropriatons bill for fiscal year 1983, H.R. 6956, as passed by the House on September 15, 1982, contains a limitation on funding for correspondence training, in language which purports to be in express limitation of the relevant provisions of title 38. The Senate Appropriations Committee struck this provision in reporting that bill on September 16, 1982.

After the House Appropriations Committee had reported H.R. 6956, but prior to its passage by the House, correspondence training was considered by the authorizing committees in the context of reconciliation legislation, which was enacted on September 8, 1982, as Public Law 97-253. The original House-passed version of that measure had contained a provision to terminate correspondence training benefits under the GI Bill, but the House-Senate conferees on that measure—senior members of the authorizing committees—specifically decided not to restrict or terminate correspondence training and the House receded from its provision.

Section 408 of the Committee bill would provide that funds in the VA's readjustment benefits account shall remain available for correspondence training unless a restriction on their availability is enacted by means of an amendment to section 1786(a)(3) of title 38 in a reconciliation bill.

The Committee feels strongly that a veterans' entitlement, such as the VA correspondence training benefit, should not be terminated or reduced through appropriations action that purports to withhold the availabilaity of funds for the payment of such entitlements. Rather, substantive program changes, if they are to be made, should originate in the authorizing committees within whose jurisdiction the program falls and should be accomplished only through measures within the authorizing committee's jurisdiction. In this case, as noted earlier, the authorizing committees specifically rejected termination of correspndence training benefits in the agreement reached on reconciliation legislation that was incorporated in the conference report (H.R. Report No. 97-759) on H.R. 6956.

In support of the purpose of this provision of the Committee bill to prevent veterans' entitlements to correspndence training benefits from being terminated through the appropriations process, section 501(f) of the Committee bill would provide that section 408 of the Committee bill would take effect on the day after the effective date of any law that is enacted after August 19, 1982, and which the Administrator determines to be inconsistent with the provisions of section 408. Section 501(f) is thus designed to render a nullity any provision of law, other than reconciliation legislation, that would purport to restrict the availability of readjustment benefits account funds for the payment of correspondence training benefits under the GI Bill.

Limitations on Contracting Out

Background

Under Office of Management and Budget Circular A-76, Federal Government agencies are required to contract with the private sector for the performance of certain commercial and industrial type activities where substantial savings to the government would result. The policy of government reliance on the private sector was first formally expressed by the Executive Branch in 1955. Circular A-76 was first issued in 1966, and was most recently revised in 1979. Further potential revisions are presently under review within OMB.

In response to considerable concern in the veteran community and among members of the Senate about how Circular A-76 would be applied within the VA's Department of Medicine and Surgery and the effect that it would have on the provision of health care services at VA facilities, the Committee held a hearing on November 5, 1981, to explore both sides of the issue. Testimony was received from VA officials representing the Office of the Administrator, the Department of Medicine and Surgery, and the General Counsel's office, as well as representatives from OMB, the Air Force (which has had some experience in contracting out in its medical facilities), GAO, various national veterans' organizations, Federal employee unions, and private sector contractors, and from the directors of two VA medical centers. Among the matters under consideration was a VA General Counsel opinion directed to the Chief Medical Director dated March 21, 1980, relating to the application of A-76 to functions carried out by DM&S. In that opinion, which was reprinted in the record of the Committee's November 5, 1981, hearing beginning at page 33, the General Counsel concluded that the basic medical care operations of DM&S are governmental functions and, as such, are exempted from coverage under A-76. As to other support activities within DM&S that are not directly related to patient care, the General Counsel concluded that such activities could be subject to the Circular. General maintenance, grounds care, and laundry service were cited as examples of functions which were not basic medical care operations and to which A-76 would apply.

In response to a concern raised at the hearing—that the preliminary studies mandated by A-76 comparing the cost of contracting out to the cost of in-house performance by Government employees could by themselves require as much as $29 million of DM&S funding to be diverted from other DM&S functions—the Committee approved a provision relating to funding for such cost comparison studies. This provision, now enacted in Public Law 97-66 as section 5010(a)(5) of title 38, specifies that funds from the various VA medical care accounts may not be used to conduct such cost comparison studies unless they have been appropriated specifically for that purpose.

On August 13, 1982, the Director of OMB notified the Committee of a possible revision to A-76 that would address concerns that had been expressed at the hearing about direct patient care. The letter stated in part:

Accordingly, and to allay any apprehension that the Administration encourages contracting out of VA direct patient care services, we have included in the proposed revision to OMB Circular No. A-76 a provision stating that commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency's chief medical director determines that in-house performance would be in the best interests of patient care.

Committee Bill Provisions

Section 409 of the Committee bill would provide that, except with regard to certain existing contract authority under title 38, no contracting out that could result in the conversion of a DM&S activity from one performed by a government employee to one performed by an employee of a contractor could take place unless, first, the Chief Medical Director determines that the activity in question is not a direct patient care activity or an activity incident to direct care; and, second, the Administrator determines that the contract in question would reduce the cost of that activity by at least 10 percent and would not reduce the quantity or quality of health-care services available at the medical center involved. For cost comparison purposes, the cost of performance by government employees would be based on an estimate of the most efficient and cost-effective organization for effective in-house performance, and the cost of conducting the cost comparison study itself would be added to the cost of the contract in computing the 10 percent differential. The Committee intends that the cost data used in the comparison should be derived insofar as possible from actual VA experience and that the factors applied be firmly drawn so as not to favor either contracting out or in-house performance of the activity in question.

The Committee's overriding concern in formulating this provision was that no purely cost-savings initiative should be permitted to interfere with the provision by the VA of quality direct health-care services to eligible veterans, and that care should be taken to insure that there will be no possibility that any contracting out that is undertaken will have any adverse effect, either directly or indirectly, on patient care. At the same time, the Committee believes that the entire Federal government—including the Veterans' Administration—should be run in the most cost-effective and least wasteful manner that is consistent with the accomplishment of important governmental objectives, such as the provision of quality health care for our Nation's veterans through the hospitals, domiciliaries, and nursing homes administered by the Department of Medicine and Surgery (DM&S's functions are specificially set forth in section 4101 of title 38). These two concerns would be expressed as freestanding findings outside of title 38 in subsection (a) of section 409 of the Committee bill.

The Committee recognizes that these concerns are not inconsistent with the Policy underlaying A-76—i.e., that the pursuit of the most economical means of performance through contracting out does not extend to functions which are so intimately related to the public interest as to mandate performance by Federal employees.

The Committee also appreciates that OMB has been responsive to the Committee's concerns about maintaining the quality of VA health care. The Committee supports OMB's decision in connection with its formulation of the upcoming revision of circular A-76 to give the Chief Medical Director the authority to determine which functions are so closely related to patient care that they should not be contracted out.

Nevertheless, the Committee is of the opinion that the tremendous degree of public concern that has been generated concerning the application of A-76 to DM&S can be adequately satisfied only through legislative action rather than through periodic executive branch action. Since the basic authority to provide health care at Va facilities is conferred by statue, in chapter 17 of title 38, and the Chief Medical Director is charged by statute, in section 4103(1), with responsibility for all operations of DM&S, the Committee believes that the decision whether a particular activity relates to the statutory direct patient-care function of DM&S and thus should be performed exclusively by DM&S employees, is a decision particularly within the competence of the Chief Medical Director and should specifically be committed thereto by statute.

Cost Estimate

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $636.3 million in fiscal year 1983; $772.1 million in fiscal year 1984; $729.7 million in fiscal year 1985; $713 million in fiscal year 1986; and $720.9 million in fiscal year 1987. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. BILL NUMBER: S. 2913.

2. BILL TITLE:

Veterans' Compensation, Education, and Employment Amendments of 1982.

3. BILL STATUS:

As ordered reported by the Senate Committee on Veterans' Affairs, August 19, 1982.

4. BILL PURPOSE:

To increase the rates of disability compensation and of dependency and indemnity compensation, to make adjustments and improvements in the education and vocational rehabilitation programs administered by the Veterans' Administration (VA) and the veterans' employment programs administered by the Department of Labor, and for other purposes.

5. COST ESTIMATE:

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Budget Authority	689.6	773.2	730.3	713.7	721.6
Outlays	636.3	772.1	729.7	713.0	720.9

The cost of this bill would fall in budget function 700.

6. BASIS FOR ESTIMATE:

The following section-by-section cost analysis only addresses those sections of the bill that would be expected to have a budgetary impact.

Certain sections of this bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriations action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of those provisions.

Section I

Sections 101-106: These sections would increase the monthly rates payable under disability compensation and dependency and indemnity compensation by 7.4 percent, except that, in calculating the new rates, all amounts less than $1 were rounded to the next lower dollar. This increase would be effective October 1, 1982.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	689.9	700.2	707.0	716.0	724.3
Estimated Outlays	636.6	699.7	706.4	715.3	723.6

The cost of these sections was estimated by first calculating the cost of a full 7.4 percent increase under normal rules of rounding (i.e., all amounts greater than $.50 rounded to the next higher dollar). This was achieved by multiplying the projected average cost in each year for all disability compensation and for all DIC cases by 7.4 percent, then multiplying the resulting average increase in cost per year for each program by the estimated number of cases in the program each year.

It was then determined which payment categories would receive $1 per month less under the new rounding procedure than they would have received under normal rounding rules. The number of cases in each of these categories was then multiplied by 12 payments per year to estimate the savings that would result from these cost reduction measures. The cost of a full 7.4 percent increase was reduced by these savings.

Section 110: This section would increase the amount of compensation payable to certain blinded veterans.

According to VA information, there are only about 2,500 veterans suffering from service-connected blindness in both eyes. Since this provision would only affect a portion of these veterans, it is not expected to result in a significant cost.

Title II

Section 201: This section would authorize the Administrator of the Veterans' Affairs to hire and assign veterans' representatives (Vet Reps) to educational institutions and other appropriate locations as deemed necessary. Under current law Vet Reps are to be assigned according to a formula based on the number of trainees in the various VA education programs. This section would take effect October 1, 1982.

Since there are currently only five Vet Reps working in the Outreach Services program, the budgetary impact of this provision is not expected to be significant.

Section 202: This section relates to the payment of subsistence allowances to veterans in training under chapter 31 (title 38, U.S.C.) who are residing in halfway houses or participating in work-release programs in connection with the conviction of a felony. The amendment would eliminate the requirement of the Administrator to verify that the veteran is paying some portion of his/her own living expenses prior to approving the payment of the subsistence allowance.

This section would result in the payment of subsistence allowances to some individuals who would not be eligible to receive them under current law. However, the number of such cases would be small, and the resulting increase in benefit cost should be fully offset by the savings in administrative costs from the elimination of the verification process.

Section 204: Under current law, authority to pay educational assistance benefits under chapter 34 (title 38, U.S.C.) expires after December 31, 1989. This section would eliminate that expiration date and allow veterans meeting all other eligibility criteria to utilize their benefits at any time within their delimiting period of ten years from their date of discharge from service. Subsection (b) of section 204, however would mandate that the Secretary of Defense reimburse the Administrator for all benefits paid under chapter 34 after December 31, 1989.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	-0.3	-1.0	-1.7	-2.3	-2.7
Estimated Outlays	-0.3	-1.0	-1.7	-2.3	-2.7

The analysis of this section indicates that the removal of the 1989 termination date would result in a modest reduction in the use of G.I. Bill benefits prior to 1989 that would be far outweighed by the newly authorized utilization after 1989. The cumulative reduction in outlays between 1983 and 1989 is estimated at approximately $14 million and corresponds to a post-1989 increase in outlays of about $725 million.

The near-term savings are relatively low because the 1989 termination date is expected to have only a small impact on separations of military personnel eligible for the G.I. Bill. This analysis rests on the premise that career service members' retention depends on their valuation of anticipated future benefits. In evaluating future benefits, CBO's methodology adjusts for the lower value that people place on deferred income in comparison to current income. Since the current law termination date eliminates the anticipated future benefits of post-1989 use of the G.I. Bill, it should decrease the likelihood that members will reenlist. Reenlistment bonuses and potential retirement benefits, however, would far outweigh the loss of education benefits for many servicemembers. Thus, it is estimated that only about 1,300 servicemembers would remain in the service as a result of this provision who would otherwise have separated. However, if the termination date is removed, many veterans would be expected to use their benefits after 1989 who would not have left the service prior to 1989 in order to do so.

Section 208: This section would extend by one year the delimiting period for the receipt of chapter 34 (title 38, U.S.C.) educational assistance benefits. This extension applies to Vietnam-era veterans pursuing a program of on the job training, secondary education, or a program of education with a vocational objective. The veteran would be allowed to use his unused entitlement to train unless the Veteran's Administration determines, on the basis of his employment and training history, that the veteran does not need the program to obtain a reasonably stable employment situation.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	---	74.0	25.0	---	---
Outlays	---	74.0	25.0	---	---

This estimate assumes that approximately 41,000 veterans would receive training as a result of the extension to December 31, 1984 of the delimiting date. It is assumed that the requirement of a review of the veterans employment and training history in relation to the proposed course or training will not have significant impact on the number of new trainees.

Section 209: This section would extend the delimiting period, for the purpose of education benefits under chapter 31, 34 and 35, for veterans who were unable to utilize their benefits because of alcohol or drug dependence.

According to VA sources, this provision would not affect a large enough number of individuals to result in a significant cost.

Title III - This title would make a number of technical and procedural amendments in federal programs of employment assistance for veterans. The provisions, however, would not affect the total amount authorized to be appropriated for any program. Therefore, no additional cost to the government would be expected to ensue from their enactment.

Title IV

Section 403: This section would authorize the Administrator to reimburse a state or other political jurisdiction for the burial expenses of a veteran whose remains are unclaimed.

According to an informal telephone survey conducted by VA of all their regional offices, the number of deceased veterans whose remains are unclaimed each year is quite small. It is expected that less than 100 claims for reimbursement would be made under this provision in any year. The cost of the provision, therefore, would not be significant.

Section 404: This section would authorize the Administrator to guaranty loans used to refinance existing loans on manufactured homes.

Since the purpose of refinancing a mortgage is to obtain terms more favorable to the borrower, the provision could enable some veterans to avoid default on their VA-insured loans. The provision would, therefore, tend to reduce costs to the Loan Guaranty Revolving Fund, but the amount of reduction is not expected to be significant.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

Section 405 of Public Law 97-253, the Omnibus Reconciliation Act of 1982, provided for reductions in various current compensation and DIC benefit rates to be effective January 1, 1983. This was done in anticipation of the enactment prior to that date of a cost-of-living increase in these programs which would reflect certain cost reducing adjustments. The rate increase provided by sections 101-106 of this bill contains the anticipated adjustments, which would yield the following savings from the cost of a full 7.4 percent rate increase:

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	-16.8	-17.0	-17.3	-17.5	-17.8
Estimated Outlays	-16.8	-17.0	-17.3	-17.5	-17.8

9. ESTIMATE PREPARED BY: Nina Shepherd, Kelly Lukins (226-2820)
Neil Singer (226-2903)

10. ESTIMATE APPROVED BY:

C.G. Nuckols
James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committe bill has five titles: I—Compensation and dependency and indemnity compensation rate increases and program improvements: II—Amendments of veterans' education and rehabilitation programs; III—Veterans' employment amendments; IV—Miscellaneous improvements; and V—Effective dates.

A. *Estimates of the numbers of individuals and businesses who would be regulated, and a determination of the groups and classes of such individuals and businesses:*

Title I.—Title I, which provides for rate increases, improvements, and minor modifications in the service-connected disability compensation and dependency and indemnity compensation programs, would not result in the regulation of any individuals or businesses.

Title II.—Title II, which would make a series of improvements and modifications in programs of educational assistance and vocational rehabilitation for veterans and eligible persons, would not result in the regulation of any individuals and businesses.

Title III.—Title III, which would make a series of improvements and modifications in veterans' employment programs, would not result in the regulation of any individuals or businesses.

Title IV.—Title IV, which would make a series of miscellaneous improvements in a variety of veterans' benefits and programs, would not result in the regulation of any individuals or businesses.

B. *Determination of the economic impact of such regulations on individuals, consumers and businesses affected:* Since, as previously indicated, there would be no such regulations, there would be no such impact.

C. *Determination of the impact on the personal privacy of the individual affected:* The enactment of the Committee bill would not increase any impact on the personal privacy of any individuals, except that those who would apply under the amendments proposed in section 209 of the Committee bill for extensions of their periods of eligibility for educational assistance and vocational rehabilitation on the grounds of an alcohol or drug condition that prevented them from pursuing training would be required, in applying for such extensions, to provide information regarding such conditions and their participation in treatment or rehabilitation for those conditions.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:* No regulation that would result in any significant amount of additional paperwork is expected to be promulgated under the provisions of the Committee bill except with respect to section 308 of title III. Under that section, certain Federal contractors would be required to file annual reports on their efforts to hire and promote certain disabled and Vietnam-era veterans. Such contractors had previously been required, by regulation, to file such reports quarterly. In addition, the Committee notes that under title II (section 205) existing paperwork requirements would be reduced by virtue of the repeal of the requirement for the submission of reports on compliance with the so-called 50-percent employment rule.

SECTION-BY-SECTION ANALYSIS OF S. 2913 AS REPORTED

Section 1

Subsection (a) of section 1 would provide that this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

Subsection (b) of section 1 would provide that, except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

Part A—Increases in rates of compensation

Sections 101 through 106 would establish monthly compensation and DIC rates which reflect the cost saving of rounding down monthly payments to the nearest dollar. This policy for achieving cost savings was established by the "Omnibus Reconciliation Act of 1982" at section 404 and 405.

Section 101

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 7.4 percent the basic monthly rates of compensation paid to veterans with disability rated from 10 to 100 percent. In computing these rates, the Committee bill would round down all amounts of $0.99 or less to the next lower dollar. Currently, a veteran with a 10-percent disability receives $58 monthly, and a veteran with a disability rated as total—100 percent—receives $1,130 monthly. Those rates would be increased to $62 and $1,213, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage. The Committee bill would also increase by 7.4 percent the higher monthly rates of compensation authorized under subsections (l) through (o) of section 314 for veterans with certain combinations of severe disabilities; the aid-and-attendance allowance rates authorized under subsection (r); the housebound rate authorized under subsection (s); the additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of the other, paired extremity; and the limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314. Also, the maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf, would be increased by 7.4 percent.

Subsection (b) of section 101 would authorize the Administrator of Veterans' Affairs to increase by 7.4 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Section 102

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disability rates of 30 percent or more who have spouses, children, and dependent parents, to increase those allowances by 7.4 percent and to realign such rates as they relate to children.

Under existing law, for a veteran so disabled who has a spouse, but no child, the amount of additional compensation paid is $69; if the married veteran has one child, the amount is $116; if two children, $153; if three children, $193; and if more than three children, $193 plus $38 for each child in excess of three.

The Committee bill would increase and realign these compensation payments as follows: for a spouse, $74; for a child, $50; for each child therafter, $40. In addition, the Committee bill would increase by 7.4 percent the amount of the dependents' allowance payable on account of a dependent parent from $56 (for each such parent) to $60; on account of a severely disabled spouse, from $125 to $134; and on account of a child age 18 or older who is pursuing a course of education at an approved educational institution, from $105 to $112.

Under paragraph (2) of present section 315, the additional compensation for dependents payable to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent would receive 30 percent of the amount specified in paragraph (1) of such section.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veterans' clothing, to increase that allowance by 7.4 percent, from $305 in existing law to $327.

Section 104

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths were service connected.

Subsection (a) of section 104 would amend subsection (a) of present section 411, relating to basic dependency and indemnity compensation rates payable to surviving spouses of veterans whose deaths were service connected, to increase by 7.4 percent the DIC benefit payable monthly to such a surviving spouse. Under current law, DIC benefits are paid according to the pay grade—service rank—of the deceased veteran; the amounts range from $415 per month for the surviving spouse of a veteran who had attained the grade of E-1, to $1,061 for the surviving spouse of a veteran who had attained the grade O-10. Those rates would be increased to $445 and $1,139, respectively; proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the position specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. These increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Subsection (b) of section 104 would amend subsection (b) of present section 411, to increase by 7.4 percent, from $48 to $51, the additional amount—dependents' allowances—payable for each child under the age of 18 to a surviving spouse receiving DIC.

Subsection (c) of section 104 would amend subsection (c) of present section 411, to increase by 7.4 percent, from $125 to $134, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home, or who is helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person.

Subsection (d) of section 104 would amend subsection (d) of present section 411, to increase by 7.4 percent, from $62 to $66, the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound, but not in need of regular aid and attendance.

Section 105

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service connected, to provide a 7.4 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. The current rates of $210 for one child, $301 for two children, and $389 for three children, plus $79 for each additional child would be increased to $225, $323, $417, and $84, respectively. Benefits payable at DIC rates under present section 410 (b) of title 38 to the surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of the section 413 increase.

Section 106

Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Clause (1) of section 106 would amend subsection (a) of present section 414, to provide a 7.4 percent increase, from $125 to $134, in the additional allowance payable monthly to a child eligible for

DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (2) of section 106 would amend subsection (b) of present section 414, to provide a 7.4 percent increase, from $210 to $225, in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (3) of section 106 would amend subsection (c) of present section 414, to provide a 7.4 percent increase, from $107 to $114, in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Part B—Compensation and dependency and indemnity compensation improvements

Section 110

Would amend present section 314 of title 38, relating to the rate of compensation payable to certain severely disabled veterans, by raising totally blinded veterans without light perception from the rate provided in subsection (m), $1547 (as proposed to be increased to $1661 in the Committee bill), to the rate provided in subsection (n), $1758 (as proposed to be increased to $1888 in the Committee bill).

Section 111

Would amend present section 410(b)(1), relating to the entitlement to DIC benefits, by including cases in which the veteran would have been entitled to compensation but had not been in receipt of compensation because of clear and unmistake Veterans' Administration error. It would apply to future cases, as well as to cases already identified, and payments for the period of total disability as corrected for administrative error would be made retroactively.

Part C—Supersession of certain provisions

Section 120

Would provide that the provisions of this title supersede provisions of section 405 of the Omnibus Reconciliation Act of 1982, Public Law 97-253. Such supersession was expressly contemplated in the Reconciliation Act itself, in section 405(a).

Title I—Cost: Enactment of the provisions of title I is estimated to cost $689.9 million in budget authority and $636.6 million in outlays in fiscal year 1983.

TITLE II—AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

Section 201

Would amend present section 243 of title 38, United States Code, relating to veterans' representatives on campus and the so-called "vet-rep" program, to eliminate the mandatory nature of the program and, instead, to authorize the Administrator to provide assistance to veterans concerning their educational benefits and to provide outreach reserves through stationing vet reps at educational institutions and other appropriate locations.

Section 202

Would amend subsection (g) of present section 1508 of title 38, relating to a prohibition on the payment of chapter 31 vocational rehabilitation subsistence allowances to veterans incarcerated for a felony, to remove the prohibition under paragraph (2) of that subsection on the payment of such allowances where the veteran is residing in a halfway house or participating in a work-release program and all of the veteran's living expenses are being defrayed by a government agency.

Section 203

Clause (1) of section 203 would amend present section 1622(d) of title 38, relating to the Post-Vietnam Era Veterans' Educational Assistance program (VEAP) participant's lump-sum payments to his or her VEAP account, to provide that for purposes of calculating the amount of the participant's monthly VEAP benefits, such lump-sum payments will be considered to have been made in monthly military-pay deductions of $100, rather than $75 as under current law.

Clause (2) of section 203 would amend present section 1622, relating to the VEAP contributions and the VEAP matching fund, to add a new subsection as follows:

New subsection (e) of section 1622: Would authorize the Administrator to utilize the chapter 32 VEAP matching fund for the purposes of receiving funds from the Department of Defense for benefits under the DOD-funded pilot program of educational assistance established pursuant to section 901 of Public Law 96-342 and of disbursing those funds to those enrolled in training under that program.

Section 204

Subsection (a) of section 204 would amend present section 1662 of title 38, relating to the time limitations on the provision of GI Bill educational assistance under chapters 34 and 36 of title 38, to repeal subsection (e), which prohibits the provision of any such assistance after December 31, 1989, and thus would allow all veterans to use their GI Bill benefits during their normal periods of eligibility, which generally expire at the end of the 10-year period following their discharge or release from active duty.

Subsection (b) of section 204 would amend chapter 34 of title 38, relating to GI Bill educational assistance, to add a new section 1694, as follows:

New section 1694 would require the Secretary of Defense to reimburse the Administrator for all GI Bill educational and training allowances paid to veterans under chapters 34 and 36 after December 31, 1989.

Section 205

Subsection (a) of section 205 would amend present section 1673(a) of title 38, relating to the disapproval of GI Bill participants' enrollments in certain courses, to repeal the requirement that institutions offering vocational objective courses compute and submit a report on the number of graduates of such courses who have obtained employment in the career field for which training was received during the preceding 2 years in order to be approved for the enrollment of veterans under chapter 34.

Subsection (b) of section 205 would amend present section 1723(a), relating to the disapproval of the enrollment in certain courses of certain service-connected disabled veterans' survivors and dependents using chapter 35 educational assistance, to repeal the requirement that institutions offering vocational objective courses compute and submit a report on the number of graduates of such courses who have obtained employment in the career field for which training was received during the preceding 2 years in order to be approved for the enrollment of eligible dependents and survivors under chapter 35.

Section 206

Subsection (a) of section 206 would amend present section 1652(b) of title 38, relating to the definition of "program of education" for the purposes of chapter 34, to update a reference to another provision of law.

Subsection (b) of section 206 would amend present section 1673(d), relating to the disapproval of GI Bill participants' enrollment in certain courses where more than 85 percent of the enrollees are in receipt of VA educational assistance, to clarify that this restriction applies to high-school level and general education diploma training offered, other than through contracts with the Department of Defense, to individuals enrolled in such training at no charge to their entitlements while on active duty.

Subsection (c) of section 206 would amend present section 1682, relating to the computation of GI Bill educational assistance allowances.

Clause (1) of subsection (c) of section 206 would amend section 1682(a)(1) to make a technical correction in existing law.

Clause (2) of subsection (c) of section 206 would amend subsection (e) of present section 1682, relating to the computation of allowances for programs of independent study, to clarify that the rate at which entitlement to GI Bill educational benefits is charged for programs composed wholly of independent study shall be at the rate at which benefits are paid.

Clause (3) of subsection (c) of section 206 would amend subsection (g) of present section 1682, relating to a prohibition on the payment of educational assistance allowances to veterans incarcerated for the conviction of a felony, to remove the prohibition under paragraph (2) of that subsection on the payment of such allowances where the veteran is residing in a halfway house or participating in a work-release program and all of the veteran's living expenses are being defrayed by a government agency.

Subsection (d) of section 206 would amend present section 1780(a), relating to periods for which payments of educational assistance allowances may be made, to correct an erroneous cross-reference to a section in chapter 31 of title 38 and to repeal the prohibition on such payments to incarcerated veterans and eligible persons for any course to the extent that tuition and fees for such course are paid under other Federal, State, or local programs and for any course for which there are no tuition and fees charged.

Subsection (e) of section 206 would amend present section 1798(e)(3), relating to the Administrator's annual report on the default rate under the VA's educational loan program, to repeal certain specifications regarding the contents of the report.

Section 207

Would amend present section 1790(b) of title 38, relating to the discontinuance of educational assistance allowances, to add a new paragraph as follows:

Subparagraph (A) of new paragraph (3) of section 1790(b) would provide the Administrator with the authority to suspend educational assistance benefits to eligible veterans and eligible persons enrolled in a course and to disapprove the enrollment or reenrollment of such veterans and persons in that course when the Administrator has evidence that there is substantial pattern of noncompliance with or violation of certain applicable requirements of title 38—specifically, the course approval requirements in present chapter 36 and the record-keeping and reporting requirements in chapters 32, 34, and 35.

Subparagraph (B) of new paragraph (3) of section 1790(b) would provide that the authority to suspend benefits as proposed to be provided by subparagraph (A) of this new paragraph (3) could be exercised only if the Administrator has given written notice to the State approving agency (SAA) and the educational institution involved of the noncompliance or violation and the institution either refuses to take corrective action or, within 60 days after the written notice, fails to take corrective action. In addition, the Administrator would be required to give no less than a 30-day notice (which could be done within the 60-day notice period to the SAA and the institution) of the intent to suspend benefits, together with the reason therefor, to the eligible veterans and eligible persons who would be affected.

Section 208

Would amend present section 1662(a)(3) of title 38, relating to the extension of the period of time for use of educational assistance benefits under chapter 34 of title 38 by certain Vietnam-era veterans pursuing secondary education, apprenticeship or other on-job training, or vocational training—the so-called "targeted delimiting date extension"—to clarify Congressional intent with respect to the granting of such extensions and to extend the period of time during which such extensions are available.

Clause (1) of subsection (a) of section 208 would amend subparagraph (C)(i) of present section 1662(a)(3) to provide that a veteran shall be determined eligible for a targeted delimiting date extension unless the veteran's particular employment and training history are examined and the examination shows that the veteran is not in need of the chosen, approved program or course of apprenticeship or other on-job training or course with an approved vocational objective in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

Under current law, a veteran is eligible for such an extension only if the Administrator determines that the veteran is in need of such program or course in order to achieve a suitable occupational or vocational objective. The implementing VA procedures (DVB Circular 22-81-15) set forth eligibility criteria establishing various grounds for automatic ineligibility that are unduly restrictive and are inconsistent with the Congressional intent underlying the extension provision. The Committee emphasizes that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to preclude the use of any arbitrary, automatically disqualifying criteria.

Clause (2) of subsection (b) of section 208 would amend subparagraph (D) of present section 1662(a)(3) to extend for one additional year—or until December 31, 1984—the period of time during which a veteran may use GI Bill educational assistance under the targeted delimiting date extension provision.

Subsection (b) of section 208 would require the Administrator to publish, for public review and comment, proposed regulations to implement the provisions of subsection (a) of this section within 30 days after the date of the enactment of the Committee bill and to publish final regulations within 90 days after such date.

Section 209

Would provide for the tolling (extension) of the periods of eligibility for GI Bill educational assistance and for a VA program of vocational rehabilitation where an alcohol or drug dependence or abuse condition has prevented the individual from pursuing training.

Subsection (a) of section 209 would amend present section 1503(b) to redesignate existing paragraph (1) as subparagraph (A) of paragraph (1) and to add a new subparagraph (B) as follows:

Division (i) of new subparagraph (B) of subsection (B)(1) of section 1503 would provide that the 12-year period of a veteran's eligibility for chapter 31 vocational rehabilitation training would not run during the period of time during which the Administrator determines, subject to the limitations in divisions (iii) and (iv) of this new subparagraph, that the veteran was unable to participate in such training as a result of a condition described in division (ii) of this new subparagraph.

Division (ii) of new subparagraph (B) of subsection (b)(1) of section 1503 would provide that the condition referred to in division (i) of this new subparagraph, on the basis of which the 12-year period of eligibility may be stopped from running, is an alcohol or drug dependence or abuse condition in a case in which the Administrator determines, under regulations that the Administrator must prescribe, that (1) the veteran either has received recognized treatment or has participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in a vocational rehabilitation program.

Division (iii) of new subparagraph (B) of subsection (B)(1) of section 1503 would require that a veteran, in order to be eligible under division (i) of this new subparagraph for a tolling of the 12-year period of eleigibility, make application therefor within one year after whichever is the latest of (1) the date on which the otherwise applicable eligibility expired, or (2) the termination of the last period of treatment or rehabilitation for the veteran's alcohol or drug condition, or (3) the date on which final regulations implementing the provisions of this new subparagraph are published.

Division (iv) of new subparagraph (B) of subsection (b)(1) of section 1503 would limit the maximum period of time for which a 12-year period of eligibility may be tolled to the length of the period during which the veteran received treatment or participated in a program of rehabilitation for the condition plus the length of any period that the veteran demonstrates, to the Administrator's satisfaction, that the veteran was prevented from participating in a program of vocational rehabilitation. However, in no case could such an extension exceed 4 years.

Division (v) of new subparagraph (B) of subsection (b)(1) of section 1503 would provide that when a period of eligibility is tolled under division (i) of this new subparagraph, it will again begin to run on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to participate in a program of vocational rehabilitation—on which it is reasonably feasible, as determined by regulations to be prescribed by the Administrator, for the veteran to participate in such a program.

Subsection (b) of section 209 would amend present section 1662(a), relating to the period of eligibility for chapter 34 (GI Bill) educational assistance—the so-called "delimiting period"—and the extensions of such periods, to provide for the tolling of the period of eligibility in certain cases in which a veterans's alcohol or drug dependence or abuse condition has prevented the veteran from pursuing his or her chosen program of education.

Clause (1) of subsection (b) of section 209 would amend present section 1662(a)(1), which provides for the tolling of the delimiting period where the veteran was prevented by a physical or mental disability from pursuing his or her chosen program of education, to provide for tolling the delimiting period, under the conditions described in new paragraph (4) of section 1662(a), as proposed to be added by paragraph (2) of this subsection of this section of the Committee bill, where a veteran has been prevented from pursuing such a program of education because of a condition described in that proposed new paragraph; and would make certain conforming changes in provisions of present section 1662(a)(1) relating to certain administrative aspects of tolling the delimiting period on grounds of disability (not including alcohol and drug conditions) to limit the applicability of those provisions to disability cases.

Clause (2) of subsection (b) of section 209 would further amend secton 1662(a) to add a new paragraph (4), as follow:

Subparagraph (A) of new paragraph (4) of section 1662(a) would provide that the condition referred to in section 1662(a)(1), as proposed to be amended by paragraph (1) of this subsection, on the basis of which condition the delimiting period may be tolled, is an alcohol or drug dependence or abuse condition of a veteran is a case in which the Administrator determines, pursuant to regulations to be prescribed by the Administrator, that (1) the veteran either received recognized treatment or participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in his or her chosen program of education.

Subparagraph (B) of new paragraph (4) of section 1662(a) would provide that application for the tolling of the delimiting period in these cases would be required to be made within one year after the latest of (1) the expiration of the otherwise applicable delimiting period, (2) the termination of the last period of treatment or rehabilitation for the alcohol or drug condition, or (3) the date on which final regulations to implement the provision are published. The length of the period of tolling would be limited to the length of time the veteran received treatment or participated in rehabilitation for the condition plus the period of time during which the veteran demonstrates to the satisfaction of the Administrator that the condition prevented pursuit of a program of education. However, in no case could such an extension exceed 4 years. When the delimiting period has been tolled, it would again begin running on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to pursue his or her chosen program of education—on which it is reasonably feasible, as determined pursuant to regulations to be prescribed, for the veteran to begin or resume pursuit of a program of education with GI Bill educational assistance.

Subsection (c) of section 209 would amend present section 1712(b), relating to periods of eligibility of the survivors and dependents of certain service-connected disabled veterans for chapter 35 educational assistance and the extension of such periods on account of disabilities, to provide for delimiting period extensions where an alcohol or drug dependence or abuse condition of an eligible spouse or surviving spouse has prevented the spouse or surviving spouse from pursuing his or her chosen program of education. The particulars of the provision are substantively identical to those described in connection with subsection (b) of this section of the Committee bill with respect to GI Bill delimiting period extensions for veterans.

Title III—Cost: Enactment of the provisions of title II is estimated to effect a cost-savings of $.03 million in budget authority and outlays for fiscal year 1983.

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

Section 301

Would express Congressional findings that serious unemployment and underemployment problems exist among disabled veterans and veterans of the Vietnam-era, that alleviation of unemployment and underemployment among such veterans is a national responsibility, and that policies and programs to addresss those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment (ASVE).

Section 302

Would amend present section 2002 of title 38, United States Code, relating to the declaration of Congressional intent regarding the provision to veterans of job-training and employment services, to require that regulations be promulgated and administered to provide eligible veterans and eligible persons the maximum of employment and training opportunities and that priority be given, in the provision of such opportunities, to the needs of disabled and Vietnam-era veterans.

Section 303

Would amend present section 2003 of title 38, relating to the assignment of veterans' employment representatives and assistant veterans' employment representative to the States, to provide a new heading, "State and Assistant State Directors for Veterans' Employment", to provide statutory titles for such representatives, "State Director for Veterans' Employment" and "Assistant State Director for Veterans' Employment", and to restructure and make two substantive changes (discussed below in the analysis of proposed new subsections (a) and (b) of present section 2003) in the material preceding clause (1) of that section by organizing that material, together with clauses (1) through (7), into four new subsections, as follows:

New subsection (a) of section 2003 would incorporate the provisions of the first sentence of present section 2003, relating to the assignment of State and Assistant State Directors of Veterans' Employment, and clarify Congressional intent with respect to the provision of clerical support to such State Directors. Under existing law, the Secretary of Labor is required to assign full-time clerical support to each State representative. The provisions of the Committee bill would clarify that the clerical support required to be provided to State Directors is provided by full-time Federal employees.

New subsection (b) of section 2003 would incorporate the provisions of the second sentence of present section 2003, relating to the qualifications of veterans' employment representatives and assistant veterans' employment representatives and their appointments, and would authorize the ASVE, in cases in which no qualified veteran meeting the two-year in-state residency requirement for the position of the State or Assistant State Director can, after a good faith search within the State, be identified to appoint a qualified veteran who has been an Assistant State Director in another State for at least one year to fill the position.

New subsection (c) of section 2003 would incorporate the provisions of the third and fouth sentences of present section 2003, relating to the relationship of the veterans' employment represntatives and such assistnat representatives to the public employment service system in the States and to their administrative responsibilities with respect to the Department of Labor, with non-substantive conforming amendmnts.

New subsection (d) of section 2003 would incorporate the provisions of the fifth sentence of present section 2003 (including clauses (1) through (7) of that section), relating to the responsibilities of veterans' employment representatives and such assistant representatives. Clause (6) of new section (d) (currently clause (6) of section 2003), relating to such representatives's responsibilities in connection with activities conducted under the Comprehensive Employment and Training Act (CETA), would be amended to reflect the anticipated enactment of the new Federal emploment and training legislation to replace the expiring CETA authority. In addition, the Committee bill would add new caluses (8) through (12) to new subsection (d) of section 2003 to expand the responsibilities of State and Assistant State Directors of Veterans' Employment to include: the supervision of the listing of jobs and referrals of veterans to such jobs as required in present section 2021 of title 38 (new clause (8)); responsibilities for ensuring that complaints of discrimination filed under such section 2012 are resolved in a timely fashion (new clause (9)); working closely with VA officials and cooperation with employeres in identifying veterans training under chapter 31 of title 38 (new clause (10)); cooperation with the directors of veterans assistance offices established under section 242 of title 38 in identifying and assisting veterans with readjustment difficulties who are in need of employment or training assistance (new clause (11)); and in the case of disabled veterans, the provision of assistance to employers in identifying and acquiring prosthetic and sensory aids to enhance disabled veterans' employability (new clause (12)).

Section 304

Would amend present section 2003A of title 38, relating to the Disabled Veterans' Outreach Program (DVOP).

Clauses (1) and (2) of subsection (a) of section 304 would amend subsection (a) of present section 2003A, relating to the availability and use of funds for DVOP, to specify that funds for DVOP are made available or are provided for use in each State. Current law provides that funds are made available to each State, directly or by grant or contract, but does not expressly limit the availability and use of the funds to availability and use in the State to which they are provided.

Clause (3) of subsection (a) of section 304 would further amend subsection (a) of present section 2003A to add a new paragraph as follows:

New paragraph (5) of subsection (a) of section 2003A would specify that the distribution and use of DVOP funds would be subject to the continuing supervision and monitoring of the ASVE, and that such funds would not be governed by the provisons of any law or regulation that is inconsistent with the provisions of section 2003A of title 38.

Subsection (b) of section 304 would amend paragraph (2) of section (b) of present section 2003A, relating to the requirement that at least 25 percent of DVOP specialists within each State be stationed at locations other than local employment service offices, to permit the waiver of this requirement, after consultation with the State Director for Veterans' Employment, on a State-by-State basis so long as the percentage of DVOP specialists so stationed is at least 20 percent nationwide and to make a technical amendment correcting an erroneous reference to section 612A of title 38.

Subsection (c) of section 304 would amend subsection (c) of present section 2003A, relating to the responsibilities of DVOP specialists, to make a nonsubstantive amendment reflecting the anticipated enactment of CETA-successor legislation, and to add a new paragraph as follows:

New paragraph (8) of subsection (c) of section 2003A: Would require DVOP specialists to develop—in cooperation with VA vocational rehabilitation staff, institutions of higher learning, and employers—outreach programs to assure maximum assistance to veterans who are enrolled in or have completed vocational rehabilitation training provided to service-connected disabled veterans under chapter 31 of title 38.

Subsection (d) of section 304 would delete subsection (d) of present section 2003A, relating to the transition of DVOP specialists employed in the program when Public Law 96-466 was enacted; would redesignate subsection (e) of present section 2003A, relating to the responsibilities of the ASVE in connection with DVOP, as subsection (d); and would amend subsection (d) (as so redesignated) to provide that the ASVE has the responsibility to monitor the appointment of DVOP specialists and to ensure that such appointments are made in accordance with the provisions of section 2003A.

Section 305

Would amend present section 2006 of title 38—relating to the Secretary's responsibilities to estimate funds needed for the administration of chapter 41 of title 38, relating to job counseling, training and placement services for veterans, and to provide such estimates as a special item in the annual budget for the Department of Labor—to require that such estimates also include an estimate of funds needed for the administration of chapter 42, relating to employment and training of disabled and Vietnam-era veterans, and chapter 43, relating to veterans' reemployment rights. It would further amend section 2006 to require that funds so estimated only be approved if they are sufficient to support the statutorily-mandated level of DVOP specialists as provided in section 2003A and that the Secretary carry out the responsibilities of section 2006(a) through the ASVE. Finally, this section would provide that the funds appropriated for the administration of chapter 41 upon a demonstrated lack of need be exercised only upon a recommendation of the ASVE.

Section 306

Would amend subsection (c) of present section 2007 of title 38, relating to the Secretary's annual report to the Congress on veteran's employment and training initiatives, to require a report on activities under the DVOP authority in section 2003A.

Section 307

Would amend paragraph (5) of present section 2011 of title 38, relating to the definition of the term "department or agency" for the purposes of chapter 42 of title 38, to add to the terms defined in that paragraph the term "department, agency and instrumentality in the executive branch" and to include specifically in the agencies encompassed in those terms the United States Postal Service and the Postal Rate Commission. The effect of this amendment is to subject those two entities to the requirement of chapter 42, including the requirements of section 2012, relating to veterans' employment emphasis under Federal contracts, and section 2014(c), relating to the requirement for the submission of affirmative action plans for disabled veterans.

Section 308

Would amend present section 2012 of title 38, relating to veterans' employment emphasis under Federal contracts and the requirement that employers having certain contracts with the Federal government in amounts of $10,000 or more (and certain subcontractors of such contractors) take affirmative action to employ and advance in employment service-connected disabled veterans rated 30-percent or more disabled and veterans of the Vietnam era, to add a new subsection as follows:

Paragraph (1) of new subsection (d) of section 2012 would require that such Federal contractors report at least annually to the Secretary of Labor on the number of such veterans in their work force by job category and hiring location.

Paragraph (2) of new subsection (d) of section 2012 would require the Secretary of Labor to insure that the administration of this reporting requirement is coordinated with other requirements for reports from such contractors.

Section 309

Would amend present section 2025 of title 38, relating to the Secretary's responsibility to render aid to veterans seeking to secure their reemployment rights, to require that the Secretary carry out the provisions of Chapter 43 through the Assistant Secretary of Labor for Veterans' Employment.

Section 310

Would amend section 6 of Public Law 90-83 to repeal the authority for the Exemplary Rehabilitation Certificates Program.

Title III—Cost: The enactment of this provision is estimated to entail no significant cost.

TITLE IV—MISCELLANEOUS IMPROVEMENTS

Section 401

Would amend present chapter 19 of title 38, relating to insurance, to provide for a limited expansion of the categories of persons to whom assignments of National Service Life Insurance (NSLI) and United States Government life insurance (USGLI) policy proceeds may be made.

Subsection (a) of section 401 would amend present section 718, relating to assignments of insurance policy proceeds by beneficiaries of NSLI policies, to add a new subsection (c), as follows:

New subsection (c): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a NSLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute between them. Under present section 718, a designated beneficiary or other person to whom NSLI proceeds are payable (other than under present section 722(b)) may assign all or any portion of the proceeds only to the insured veteran's surviving spouse, child, parent, grandparent, brother, or sister, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment.

An assignment is authorized under this new subsection only with respect to NSLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, would be required to join in any assignment by a person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated. This new subsection does not apply to payments of insurance granted under present section 722(b) of title 38, to statutorily designated survivors of certain mentally incompetent veterans.

Subsection (b) of section 401 would amend present section 753, relating to assignments of insurance policy proceeds by beneficiaries of USGLI policies, to add to new subsection (b) as follows:

New subsection (b): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a USGLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute. Under present section 753, a person to whom USGLI proceeds are payable may assign all or any portion of the proceeds only to the insured veteran's spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment. An assignment is authorized under this new subsection only with respect to USGLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, must join in any assignment by the person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated.

Section 401—Cost: The enactment of this section is not expected to result in any significant cost.

Section 402

Would amend subsection (c) of present section 770 of title 38, relating to payments of insurance under the Servicemen's Group Life Insurance and Veterans' Group Life Insurance programs, to eliminate the 4-year time restriction on the filing of claims for proceeds of such insurance, and to provide that the proceeds will not escheat to a State. This section would conform the SGLI-VGLI program with the United States Government life insurance program and the

National Service Life Insurance program regarding time restrictions and escheats.

Clause (1) of section 402 would amend present section 770(c), relating to payments of insurance proceeds under the SGLI and VGLI programs, by striking the second sentence of that subsection, thereby eliminating the 4-year restriction on filing claims for such insurance proceeds.

Clause (2) of section 402 would further amend present section 770 by adding a new subsection (h) as follows:

Subsection (h): Would specify that under no circumstances may the proceeds of a SGLI or VGLI policy escheat to a State. This new subsection would also require that, prior to payment of proceeds to the estate of the insured or to the estate of a beneficiary, an affirmative showing must be made that all sums to be paid will not escheat to a State. Under present law, if the proceeds of an insurance policy are not claimed within a 4-year period following the death of the insured, such proceeds escheat to a revolving fund. Since the 4-year time restriction would be eliminated by clause (1) of this section, it is necessary to specify that the proceeds will at no time escheat to a State.

Section 403

Would amend present section 902 of title 38, relating to the up-to-$300 VA burial benefit for certain veterans who die from non-service-connected causes, to add a new subsection (c), as follows:

Paragraph (1) of new subsection (c): Would provide that, for the purposes of the burial benefit eligibility criteria set forth in section 902(a), which provide eligibility only in the cases of veterans who, at the time of death, were entitled to service-connected disability compensation or in receipt of VA non-service-connected disability pension, a veteran of a period of war or a veteran discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of death if a State or political subdivision of a State submits a written certification to the Administrator that the body of the veteran was not claimed by a next of kin or other person, that the State (or political subdivision) has assumed responsibility for the burial and funeral expenses of the veteran, and that sufficient resources or funds, other than the resources or funds of the State (or political subdivision), are not available to cover the burial and funeral expenses.

Paragraph (2) of new subsection (c): Would provide that the payment on behalf of a veteran who is thus deemed to have been in receipt of pension at the time of death shall—notwithstanding the provisions of present section 902(b), which, in part, preclude payment of the burial benefit for expenses paid by a State or political subdivision of the United States—be made to the State (or political subdivision) that provides the certification pursuant to paragraph (1) of this new subsection and shall be the lesser of $300 or the actual burial and funeral expenses that it incurred.

Section 404

Would amend present chapter 37 of title 38, relating to housing and small business loans, to authorize the VA to guarantee certain loans made to a veteran for the purposes both of refinancing a lien on a manufactured home and of purchasing a lot for the home, and to change the references to mobile homes to manufactured homes.

Subsection (a) of section 404 would amend present section 1819(a), relating to the purposes for which VA-guaranteed loans may be made.

Clause (1) of subsection (a) of section 404 would make a conforming change in section 1819(a)(1), in light of the provisions of new clause (G) of section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the Committee bill, that would authorize the guarantee of a loan made for the two purposes specified in new clause (G).

Clause (2) of subsection (a) of section 404 would amend paragraph (1) of present section 1819(a) to add a new clause (G), as follows:

New clause (G) of paragraph (1) of subsection (a) of section 1819: Would provide that a loan may be guaranteed under chapter 37 if the purposes of the loan are (1) to refinance in accordance with the provisions of paragraph (5) of section 1819(a), as proposed to be added by clause (5) of section 404(a) of the bill, a previous loan that was made for the purchase of and that is secured by a manufactured home, and (2) to purchase a lot on which such home is or will be placed.

Clause (3) of subsection (a) of section 404 would amend section 1819(a)(2) to make conforming changes reflecting the addition of new clause (G) to section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill, and the addition, by section 401(b)(1) of Public Law 96-385, of clause (F) to section 1819(a)(1).

Clause (4) of subsection (a) of section 404 would amend section 1819(a)(3) to make a conforming change reflecting the addition of new clause (G) to section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill.

Clause (5) of subsection (a) of section 404 would amend present section 1819(a) to add a new paragraph (5), as follows:

Subparagraph (A) of new paragraph (5) of section 1819(a): Would require that, in order for the VA to guarantee a loan made for the purposes of new clause (G) of section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill, the loan must be secured by the same manufactured home as the loan being refinanced and such home must be owned and occupied as the veteran's home, and the amount of the loan may not exceed an amount equal to the sum of the purchase price of a lot, the cost of necessary preparation of such lot, the balance of the loan being refinanced, and authorized closing costs.

Subparagraph (B) of new paragraph (5) of section 1819(a): Would provide that, where a loan is made for the purposes of (1) refinancing a previous VA loan made for the purchase of a manufactured home, and (2) purchasing a lot, the amount of the new loan that is applied to paying off the previous loan may be guaranteed without regard to the amount of the veteran's unused entitlement and the veteran's entitlement would not be charged with respect to that portion of the new loan.

Subsection (b) of section 404 would amend present section 1803(c)(3), relating to a veteran's payment of a discount to a lender, to add a new clause (E), as follows:

New clause (E) of section 1803(c)(3): Would specify that there is no prohibition against a veteran paying a reasonable discount required by a lender when the proceeds of the loan are used—as authorized by new clause (G) of section 1819(a)(1), as proposed to be added by section 404(a)(2) of the bill—to refinance an existing loan on a manufactured home and to purchase a lot on which such home is or will be placed.

Subsection (c) of section 404 would make a series of nonsubstantive amendments to present chapter 37 to make a change in nomenclature by deleting all references to "mobile home", "mobile homes", "mobile-home lot", and "mobile-home lots" and replace them with references to "manufactured home", "manufactured homes", "manufactured-home lot", and "manufactured-home lots", respectively.

Section 405

Section 405 would amend present section 3102 of title 38, relating to the waiver of recovery of payments and overpayments of benefits under laws administered by the Veterans' Administration.

Clause (1) of section 405 would amend section 3102 of title 38, to reduce from 2 years to 180 days the period for requesting waiver of repayment of a debt owed to the VA.

Clause (2) of section 405 would amend section 3102(a) to provide the Administrator of Veterans' Affairs authority to grant an individual a longer period to request such a waiver when the individual demonstrates to the satisfaction of the Administrator that notification of the indebtedness was not actually received within a reasonable period after the date of notification. Such an extension beyond the 180-day period would be for such time as the Administrator determines to be reasonable.

Section 406

Would amend section 3103A of title 38, United States Code, relating to the general requirement that persons who initially enter active duty in the Armed Forces after September 7, 1980, and fail to complete least 2 years of service be denied eligibility for benefits under title 38 and benefits under any other law administered by the VA, to provide for a parallel minimum-service requirement with respect to benefits under laws other than title 38 and other than laws administered by the VA. Thus, this section of the Committee bill would replace the existing minimum-service requirement in section 977 of title 10, United States Code, with respect to non-title 38/non-VA benefits. Section 3103A—which was enacted on October 17, 1981, by Public Law 97-66—has already replaced the minimum-service requirement in section 977 of title 10 with respect to title 38 and VA benefits.

Clause (1) of subsection (a) of section 406 would amend present section 3103A by redesignating subsection (d) as subsection (e) and inserting a new subsection (d), as follows:

New subsection (d) of section 3103A: Would establish a general 2-year minimum-service requirement for eligibility for benefits based on active-duty service under any Federal law other than either title 38 or laws administered by the VA with respect to (1) any person who originally enlists in a regular component of the Armed

Forces after September 7, 1980, and (2) any other person who enters on active duty on or after the date of enactment of the Committee bill without having previously completed 24 months of continuous active duty or having been discharged from active duty under section 1171 of title 10, United States Code, under which an enlisted person may be discharged for the convenience of the government up to 90 days prior to expiration of his or her enlistment. The applicability of the proposed minimum-service requirement to those who originally enlisted prior to the date of enactment but after September 7, 1980, is based on the fact that the provisions of section 977 of title 10, which the Committee bill would supersede, imposed a 2-year minimum-service requirement—similar to that provided for in the Committee bill—with respect to persons who originally enlisted after that date. The other categories of personnel to whom the proposed requirement would apply are personnel with active duty prior to September 7, 1980, of less than 2 years, military officers, and Public Health Service and National Oceanic and atmospheric Administration commissioned officers. Because the title 10 provision does nt apply to them, the new provisions make them subject to this minimum-service requirement only prospectively. As to those who have some prior service before reentering active duty and who, even though they reentered active duty after September 7, 1980, are not subject to the present title 10 provision because that provision applies only to original enlistments, the Committee bill would not impose any minimum-service requirement if they had already served for 2 years continuously or received up-to-90-day early discharges for the convenience of the government under section 1171 of title 10.

The Committee bill incorporates policy modifications of the title 10 provision that are parallel to those made with respect to title 38 and other VA benefits in the enactment last year of present section 3103A of title 38. These modifications would provide exemptions for section 1171 dischargees, who are not exempted under the title 10 provision; would exempt, as does the title 10 provision, those who receive hardship discharges under section 1173 of title 10; would exempt (in a way generally consistent with section 977 of title 10) those discharged for a disability incurred or aggravated in line of duty; and would provide an exemption (in contrast to the title 10 exempton for those with any service-connected disability, including a disability rated zero-percent disabling and thus not compensable) for veterans who have compensable service-connected disabilities.

The Committee bill would exclude from the scope of the minimum-service requirement all Social Security Act benefits for which social security taxes are paid and would cover only one Social Security Act benefit—the so-called "deemed military wage credits" under section 229(a) of that Act. The Committee bill would also exclude from the scope of the minimum-service requirement all benefits under title 5 except for veterans preference in Federal employment.

Finally, the Committee bill would provide (as section 3103A as enacted last year generally provides with respect to title 38 benefits and other VA benefits) that a veteran's dependent or survivor is not eligible for a non-title 38/non-VA benefit based on the veteran's service where the veteran would be denied benefits because of having failed to satisfy the minimum-service requirement. Present section 977 of title 10 makes no reference to the eligibility of dependents or surviviors.

Clause (2) of subsection (a) of section 406 would amend subsection (e) of present section 3103A (as proposed to be redesignated by paragraph (1) of this subsection of section 406 of the Committee bill), relating to the definition of "benefit" for the purposes of section 3103A, to clarify that the term includes a right to special consideration, preference, priority, or similar advantage. This amendment would thus make clear, for example, that the proposed minimum-service provision applies to the requirement that veterans and their survivors and dependents be given special consideration in Small Business Administration programs (section 4(b)(1) of the Small Business Act (15 U.S.C. § 633 (b)(1)) and to the requirement that wartime veterans and certain survivors be given preference ahead of other applicants for Farmers Home Administration assistance (section 507 of the Housing Act of 1949 (42 U.S.C. § 1477)).

Clause (3) of subsection (a) of section 406 would further amend present section 3103A to add a new subsection (f), as follows:

New subsection (f) of section 3103A: Would clarify that the minimum-service requirements in section 3103A (both the new and existing ones) do not apply to procedural rights, including rights to assistance in applying for or claiming a benefit. Thus, threshold eligibilty determinations would not be required to the made before assistance can be rendered to those claiming benefits based on active-duty service.

Subsection (b) of section 406 would provide that the denial of benefits required under new subsection (d) of section 3103A (as proposed to be added by subsection (a)(1) of this section of the Committee bill) for failure to satisfy the minimum-service requirement does not apply to any benefit received before the date of enactment. Thus, in those limited respects in which an individual would lose existing eligibility by virtue of the enactment of this section of the committee bill, the individual would not be required to make any repayment to the government in connection with any benefit he or she received prior to the date of enactment. (An example would be a veteran with a service-connected, but zero-rated disability who, although not satisfying the minimum-service requirement in section 977, is not denied benefits by section 977, but would be denied benefits by the Committee bill.) In this connection, deemed military wage credits under section 229(a) of the Social Security Act would be considered to be a benefit received by a person on the date of that person's discharge or release from active duty. Thus, only persons who are discharged on or after the date of enactment of the Committee bill and who would lose some existing eligibilities as a result of the enactment of this section of the Committee bill by virtue of failing to satisfy the minimum-service requirement would lose any entitlement to the deemed military wage credits.

Section 407

Would provide, in light of the provisions of section 406 of the Committee bill, that section 977 of title 10, United States Code, would be superseded.

Section 408

Would provide that funds in the Veterans' Administration readjustment benefits account (from which GI Bill and certain other benefits are paid) shall remain available for the payment of GI Bill correspondence training benefits, unless the Congress enacts, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, Public Law 93-344, a provision amending section 1786(a)(3) of title 38 (which provides that restrictions on the availability of funds in that account for correspondence training benefits may be accomplished only by means of a provision enacted in express limitation of section 1786(a)(3)) so as to restrict such availability.

Section 409

Would amend section 5010 of title 38 to prohibit contracting out—that is, the conversion of an activity that is currently performed by employees of the VA's Department of Medicine and Surgery to an activity performed by employees of a private contractor, under certain circumstances. The restrictions imposed by this section would expressly not apply to certain elements of the VA's contract authority under various existing provisions of law.

Subsection (a) of section 409 would state the policy of the United States with respect to two important matters related to the enactment of this section: First, that the VA should maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and, second, that such services should be provided through the most cost-effective means that are consistent with carrying out fully the statutory functions of the Department of Medicine and Surgery. Such functions are specified in section 410(a), (b), and (c) of chapter 73 of title 38, governing the operation of the Department of Medicine and Surgery.

Subsection (b) of section 409 would amend present section 5010, relating to the operation of medical facilities, to add a new subsection (c), as follows:

Paragraph (1) of new subsection (c) of section 5010: Would provide that, notwithstanding any provision of law other than specific provisions governing the VA's present contract authority as set forth in paragraph (2) of new subsection (c) (discussed below), no contract may be entered into by the Administrator as a result of which an activity at a VA health-care facility would be converted from Federal government performance to contractor performance unless two preconditions have been met: first, the VA Chief Medical Director has determined that the activity which is being considered for conversion is not a direct patient-care activity or an activity incident to direct patient care; and, second, in the case of an activity determined by the Chief Medical Director to be neither a direct patient-care activity nor an activity incident to direct patient care, the Administrator may enter into a contract for the conversion of that activity to private performance under the following circumstances: The Administrator's decision must be based upon a consideration of the advice of the Chief Medical Director, and upon the results of a cost-comparison study as described in present subsection (a)(5) of section 5010—that is, "any study comparing the cost of the provision by private contractors with the cost of the provision by the Veterans' Administrator of commercial or industrial products and services for the Department of Medicine and Surgery". For purposes of this new subsection (c), the cost-comparison study must be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees. Finally, the Administrator must determine that, over the proposed duration of the contract, the combined cost to the Federal government of performing the activity under the contract and of conducting the cost-comparison study would be at least 10 percent lower than the cost of in-house performance by government employees, and he must determine, most importantly, that the contract would not result in any reduction of the quantity or quality of health-care services provided to eligible veterans at the facility involved.

New paragraph (1) would also provide that the Administrator's decision to contract out would, subject to the restrictions described above, be within the Administrator's sole discretion. This provision indicates the Committee's intention that the Administrator's decision should not be subject to judicial review by mandamus action or other legal action asserting the executory or mandatory nature of the Administrator's authority, but rather that it should be regarded as a policy matter reviewable only for an abuse of discretion, to the extent that review is available under law.

Paragraph (2) of new subsection (c) of section 5010: Would provide that the limitations on the Administrator's contract authority imposed under paragraph (1) of the new subsection (c) would not apply to any contract or agreement under various title 38 provisions: chapter 17, relating to hospital, domiciliary, and medical care (for example: section 601(4)(C) which authorizes contracts for hospital care and medcial services under certain circumstances, section 612A(e)(1) which authorizes contracts for readjustment counseling service under certain conditions, section 620(a) which authorizes contracts for nursing home care in community nursing homes, and section 620A(a)(1) which authorizes contracts with halfway houses and similar residential programs for alcohol and drug abuse rehabilitation); section 5011, providing for medical resource sharing agreements between the VA and the Department of Defense; section 5011A, providing for contracts with private medical facilities with respect to the furnishing of health-care services to members of the Armed Forces during a war or national emergency; section 5053, providing for contracts for specialized medical resources not otherwise feasibly available; or under section 686 of title 31, providing for the purchase by contract of supplies, equipment, or services by one government bureau or department from another. The limitations in new paragraph (1) will also not apply to any contract under section 4117 of title 38, providing for contracts for scarce medical specialist services, in those cases in which the Chief Medical Director determines that the contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at that particular facility.

Title IV—Cost: The enactment of this provision is estimated to entail no significant cost.

Section 501

TITLE V—EFFECTIVE DATES

Would provide for effective dates for the provisions of the Committee bill.

Subsection (a) of section 501 would provide that the provisions of the Committee bill would be effective on October 1, 1982, except as provided in subsections (b), (c), (d), (e), and (f) of this section.

Subsection (b) of section 501 would provide that the provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of enactment of the Committee bill.

Paragraph (1) of subsection (c) of section 501 would provide that the provisions of section 111 shall take effect on October 1, 1982.

Paragraph (2) of subsection (c) of section 501 would require the Administrator to make a lump-sum payment as soon as practicable after September 30, 1982, to each person who would have been entitled to benefits under section 410(b) of title 38, United States Code, if section 111 of the Committee bill had been in effect on October 1, 1978.

Subsection (d) of section 501 would provide that the amendment made by proposed section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

Subsection (e) of section 501 would provide that the amendment made by proposed section 405 shall take effect on the one hundred and eigthieth day after the date of enactment of Committee bill.

Subsection (f) of section 501 would provide that the provisions of section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or proxy by Members of the Committee on Veterans' Affairs at a August 19, 1982, meeting to consider provisions which were to be included in an original bill to be introduced subsequently by the Chairman. Such provisions, which were introduced by the Chairman in S. 2913, on September 16, 1982, were agreed to be reported to the Senate by a unanimous 12-0 vote, as follows:

YEAS—12	NAYS—0
Alan K. Simpson	
Strom Thurmond	
Robert T. Stafford	
Bob Kasten	
Jeremiah Denton	
Frank K. Murkowski	
Arlen Specter	
Alan Cranton	
Jennings Randolph	
Spark M. Matsunaga	
Dennis DeConcini	
George J. Mitchell	

AGENCY REPORT

The Veterans' Administration submitted letters dated February 19, March 12, and 24, 1982, and June 15, 1982, transmitting Administration-requested measures that were subsequently introduced as S. 2378, S. 2381, S. 2382, and S. 2388, on April 15, 1982; and S. 2747 on July 16, 1982. In response to a request by the Committee Chairman for comments on Amendment No. S. 2378 of July 30, 1982, report from the U.S. Small Business Administration.

Those reports follow:

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

FEB 1 9 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am enclosing a draft bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative Federal payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for other cost-saving improvements in veterans' programs; and for other purposes. I respectfully request that the bill be introduced and promptly enacted.

The bill, to be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982," would accomplish the following purposes:

a. Increase the monthly rates of compensation payable to veterans for service-connected disabilities, as well as the additional amounts authorized those with dependents.

b. Increase the monthly rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths were service connected.

c. Increase the annual clothing allowance payable to certain veterans wearing or using prosthetic or orthopedic appliances.

d. Discontinue payments of additional compensation for individual unemployability in cases where veterans are receiving other Federal benefits by reason of disability or retirement.

e. Increase from 30 percent to 50 percent the level of disability required for the payment of dependents' allowances.

f. Provide that the commencement of the period of payment of benefits shall be the first day of the month following the month in which the award became effective.

g. Change the effective date for the reduction of benefits by reason of the loss of a dependent from the end of the year to the end of the month in which the loss occurred.

h. Provide for the rounding down, to the next lower dollar, of monthly pension benefit payments.

i. Limit eligibility for pension or additional pension based on a child's college attendance to those for whom benefits are payable as of September 1982 and phase in certain reductions in such pension.

We estimate enactment of the increased rates would result in fiscal year 1983 costs of $771 million, and comparable costs in succeeding years. Offsetting savings of an estimated $4.8 million in fiscal year 1982, $191.5 million in 1983, and $483.2 million in 1984 would be realized through enactment of the bill's other provisions.

Title I--Compensation and Dependency and Indemnity Compensation Rate Increases

Sections 101 through 106 would provide for an increase of 8.1 percent in monthly compensation and dependency and indemnity compensation (DIC) rates and in the annual clothing allowance.

The purpose of disability compensation, payable under chapter 11 of title 38, United States Code, is to provide relief from the impaired earning capacity of veterans disabled during, or as a result of, military service. Disability ratings are required by section 355 of title 38 to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability in civil occupations. Special higher rates are payable for specified disabilities, and additional compensation is payable for dependents if the veteran's rating is 30 percent or higher.

DIC is payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if the veteran's death was nonservice-connected but the veteran was rated as totally disabled for 10 years prior to death. Surviving spouses' DIC rates are based on the veteran's military pay grade. The surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over age 18 who became helpless before reaching age 18 may receive DIC, as well as those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

Under section 362 of title 38, the annual clothing allowance is payable to a service disabled veteran whose disability requires the use of a prosthetic device or orthopedic appliance that tends to tear or wear out the veteran's clothing.

Section 101 would increase, by 8.1 percent, the basic rates of compensation as well as the higher rates for certain specified disabilities. Section 102 would increase, by a like percentage, the rates of additional compensation for dependents, and section 103 the annual clothing allowance. Sections 104 through 106 would increase DIC rates by 8.1 percent.

The Veterans Administration has periodically recommended cost-of-living increases in compensation and DIC benefits to assure that our programs remain responsive to changing economic conditions. We support increases designed to offset inflation's erosion of the purchasing power of these benefits. We therefore propose a percentage increase consistent with the June 1, 1982 indexed cost-of-living adjustment in Social Security and VA pension benefits, an increase the Administration currently estimates will be 8.1 percent.

The increases proposed by Title I would be effective October 1, 1982, and would result in fiscal year 1983 costs of $771 million.

Title II--Compensation Amendments

Section 201 of the bill would amend section 3104 of title 38, relating to the prohibition against duplication of benefits. In the event an unemployable-rated veteran is receiving other Federal monetary benefits for disability or retirement, monthly compensation would be limited to the amount payable on the basis of (1) the veteran's schedular rating or (2) the amount payable on the basis of the unemployable (total) rating, reduced by the amount of other federal benefits for that month, whichever is the greater. This provision would primarily affect those unemployable-rated veterans in receipt of benefits under Title II of the Social Security Act whose schedular ratings for compensation purposes under Subpart B of 38 C.F.R. Part 4, generally known as the "rating schedule," range from 60 to 90 percent; however, veterans so rated who are in receipt of benefits under other Federal disability and retirement programs, such as Black Lung, railroad retirement, or civil service retirement, would also be affected.

The VA has authority under section 355 of title 38, United States Code, to adopt and apply a schedule of disability ratings from 10 to 100 percent. To the extent practicable, ratings are based on the average impairment of earning capacity resulting from such disabilities. It has long been recognized that, in individual instances, the schedular rating is inadequate to provide fair compensation for the effect of the veteran's disability on his or her employability. As stated in 38 C.F.R. § 4.16, it is the established policy of our Agency that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated as totally disabled. The regulatory guidelines provide that, where such unemployability is shown and the veteran is rated 60 percent or more disabled, the total-disability rating may be assigned by regional office authorities. Other cases are to be submitted to Central Office for approval. As of September, 1981, approximately 106,600 veterans had been assigned such extra-schedular ratings. The additional compensation payable in individual cases amounts to several hundred dollars per month.

There is a longstanding policy against the concurrent payment of duplicate compensation benefits to veterans that is applicable where they are also entitled to military retired pay, Federal employees' workers compensation (FECA), or nonservice-connected VA pension. Under section 3105 of title 38, a military retiree must waive an equivalent portion of military retired pay in order to receive compensation. A Federal worker must elect between compensation and FECA benefits if for the same disability, and a veteran entitled to both compensation and pension must elect between the two benefits. These provisions prevent the pyramiding of Federal benefits based on military service.

The Social Security program had its inception in the 1930's as a means of insuring our citizens against the loss of earning capacity in old age. Later, the program was extended to include insurance against the risk of physical or mental disability resulting in unemployability, defined as inability to engage in substantially gainful activity. During World

War II, provisions were added to assure that service personnel were not deprived of Social Security credits because of military service. These provisions have been continued over the years, and the result has been that persons serving in the military receive earned Social Security credits for their military service as well as certain deemed credits to make up for any disparity between the coverage they would have had otherwise.

Of the 113,000 veterans receiving compensation based on individual unemployability in early 1981, 28,194--32 percent--were also receiving Social Security disability (SSDI) benefits. The average SSDI payment was $408 per month. Old age Social Security benefits (OASI) were received by 25,306--29 percent; the average payment was $324 per month. The amount of additional compensation by reason of the finding of unemployability currently ranges from $717 per month, if the veteran's schedular rating is 60 percent, to $451 per month, if the veteran's schedular rating is 90 percent. Veterans with dependents receive additional amounts.

Veterans receiving OASI, SSDI, or other Federal disability or retirement benefits generally do not have the intention or capability of re-entering the job market. In these cases, the veteran is already receiving one Federal benefit as a result of his or her condition. In our view, the duplication of benefits provided through the veterans' compensation program is an unwarranted expenditure of Federal Government funds. Especially today, when Federal budgetary restraint is critical to the restoration of the economy's vigor, the American taxpayer should not be expected to support the pyramiding of Federal benefits based on unemployability. At the same time, we recognize the commitment made to veterans suffering from service-connected disability. Thus, this proposal would reduce the amount of compensation payable to an unemployable-rated veteran by the amount of other Federal benefits received for that month, but never below the amount payable on the basis of the veteran's schedular rating.

This section would be effective October 1, 1983, and would result in fiscal year 1984 savings of $282.5 million by reductions applicable to persons on the rolls as of that date.

Section 202 of the bill would amend section 315 of title 38, relating to additional compensation for dependents, by increasing from 30 to 50 percent the level of disability required for payment of such compensation. Under current law, veterans rated 30 percent or more disabled receive additional compensation for dependents. Amounts are prorated according to the percentage of disability. For example, a veteran rated as 30-percent disabled receives 30 percent of the amount that would be paid to a totally disabled veteran with a like number of dependents.

Totally disabled veterans have been eligible for additional compensation for dependents since Civil War days. In 1944, veterans rated 60 percent or more disabled were made eligible for such compensation, and the requisite level of disability was reduced to 50 percent in 1949. This cut-off point was reasonable and fair. Veterans whose disabilities are rated at less than 50 percent are likely to be fully employed and in a position to provide for their families. Over the objections of this Agency, however, Congress reduced the level of required disability to 30 percent in 1978 for reasons bearing no relationship to these veterans' ability to provide for their families without Federal Government aid.

This poorly targeted liberalization added substantial short and long-range costs to the compensation program. The amounts individually payable are relatively small; for example, a veteran rated 30-percent disabled with a spouse and child currently receives an additional $35 per month. However, because the number of 30-percent and 40-percent disabled veterans receiving dependents' allowances is sizeable--approximately 314,400 in fiscal year 1981--the cost is substantial. The outlay for fiscal year 1981 was $111.7 million, and we estimate $124.2 million for this fiscal year. Projected costs for fiscal years 1983 and 1984 total $273.3 million. This provision, which would become effective October 1, 1982, would result in savings approximately equal to these projected costs.

Title III--Miscellaneous Amendments

Section 301 of the bill would add a new section 3011 to chapter 51 of title 38, relating to applications, effective dates, and payments. The new section, titled "Commencement of the Period of Payment Based on an Award," would provide for the commencement of the period for which compensation, dependency and indemnity compensation (DIC), and pension benefits are paid to be the first day of the month following the month in which the award is effective. Under section 3010 of title 38, awards become effective at various times. For example, a compensation award is effective on the day following the day of a veteran's discharge if the veteran's claim is filed within one year. Otherwise, the award is effective on the date the claim is filed. A DIC award is effective on the first day of the month in which the death occurred, if the survivor's claim is filed within one year;

otherwise, on the date the claim is filed. Other specific effective dates are provided for such contingencies as an increased rating for compensation purposes, allowance of a reopened claim involving the correction of military records, and the establishment of eligibility for benefits based on nonservice-connected disabilities. The effective date of an award is important for many title 38 purposes that are unrelated to the payment of benefits, for example, eligibility for certain health-care priorities, protection of service connection or disability ratings, or eligibility for other benefits such as vocational rehabilitation or automobile adaptive assistance. Under current law, the commencement of the period for payment of monetary benefits is coextensive with the effective date of the award, even though payment does not actually begin until later. Because the adjudicative process in almost all cases takes a reasonable amount of time, it is routine for the beneficiary's first payment to contain a retroactive component. For example, if a veteran is discharged on July 15 and files a compensation claim on August 15, even the promptest adjudication of the claim cannot occur overnight; assuming that extensive development is not required, the veteran may receive his first check by October 1, but it will be retroactive to July 16.

This proposal would simply defer commencement of the payment period until the first day of the month following the month in which the award itself became effective. This provision would not affect the effective date of the award for any purpose, or the special payment under section 3110 of title 38, United States Code, to certain surviving spouses. In the example cited above, payment would be retroactive to August 1, but the veteran's service-connected disability status would be established as of July 16, and the veteran's rating would relate back to that date, as would eligibility for any benefit derived from service-connected status. Similarly, if a veteran's death occurred on March 15, the survivor's DIC eligibility would relate back to the first day of March (if claim is filed within one year) but payment would commence April 1. However, in the event the veteran's payment for the month of March would have been greater than the survivor's monthly DIC payment, the survivor would receive the higher amount, as under current law.

This provision would be effective on July 1, 1982. It would be simple to administer, would achieve cost savings of approximately $28.8 million in fiscal year 1983, and would in almost all cases simply reduce the amount of the retroactive benefits portion of the first payment. The amount of reduction in most cases would be relatively small.

Section 302 would amend section 3012 of title 38, relating to effective dates for reductions and discontinuances, by providing that, where a benefit is to be reduced or discontinued by reason of a dependent's or survivor's marriage or death, or a veteran's divorce or annulment, the effective date for reduction or discontinuance shall be the last day of the month in which the event occurred. Under current law, this date is the last day of the calendar year. This means that a veteran or survivor may receive benefits intended for the support of dependents for as many as eleven months after the dependent has died or the beneficiary is no longer legally responsible for the dependent's support. This is unreasonable and inconsistent with other title 38 provisions relating to reductions and discontinuances. We anticipate savings of $3.2 million during fiscal year 1983 from this proposal, which would be effective October 1, 1982.

Section 303 of the bill would amend section 3020 of title 38, relating to the payment of benefits, to provide for the payment of need-based VA pension benefits (other than protected pension payable under section 306(b) of Public Law No. 95-588) in round dollar amounts.

Under current law, the VA through its administrative machinery certifies each month to the Treasury Department the exact amounts to be paid to its beneficiaries, and Treasury makes the actual disbursements. Many, if not most, pension payments are made in unrounded amounts. This provision would grant authority to the VA to round pension benefit payment amounts to the next lower dollar. For example, if the calculated amount to be paid is $60.39, payment would actually be certified and made (by check or electronic transfer) for $60.00. The savings from this proposal, effective July 1, 1982, would be approximately $10.8 million in fiscal year 1983 and comparable amounts in future fiscal years, yet the annual impact on any one beneficiary would be very small--much less than $12 in the typical case. Although technically different, this provision would be consistent with the recent amendment of the Social Security Act in the Omnibus Reconciliation Act of 1981 (Pub. L. No. 97-35).

Section 304 would amend section 501 of title 38, relating to definitions applicable to the nonservice-connected pension programs, to provide that, for the purpose of the improved pension program, the definition of "child" would include children up to the age of 19 if they are attending secondary school but would not include college students over the age of 18. This amendment, effective October 1, 1982, would thus terminate new pension eligibility based on a child's college attendance. It would not affect the eligibility of persons who, prior to reaching age 18, become permanently incapable of self-support or pension eligibility based on a child's college attendance in cases where the child is attending college as of September 1982. Under section 304, certain reductions and limitations would, however, be applied to those beneficiaries entitled as of September 30, 1982.

Under current law, a veteran or surviving spouse entitled to need-based improved pension benefits under chapter 15 of title 38 may receive additional benefits for children up to the age of 18. Also, section 306 pensioners--those receiving pension under section 306(a) of Pub. L. No. 95-588--may receive such benefits. Where there is no eligible surviving spouse, a veteran's needy surviving child may receive benefits in the child's own right, up to the age of 18. Where a "child" age 18 to 23, i.e., an adult student, is attending an approved educational institution, the dependents' allowance or the students' benefit continues during such attendance.

This provision would terminate the eligibility of veterans and surviving spouses for additional pension based on a child's college attendance during ages 18 to 23, as well as the eligibility of surviving children in the child's own right, when the child reaches age 18 after September 30, 1982. However, the eligibility of current beneficiaries (where the child has attained age 18 prior to September 30, 1982, and is enrolled in college for the month of September 1982) would be protected during the child's uninterrupted continuation of college attendance, subject to certain limitations. First, benefits would not be paid for the summer months--May through August, beginning in 1982. Second, that portion of the improved pension benefit attributable to the child, or the entire benefit if paid in the child's own right, would be held to the August 1981 level or a later month, if deemed appropriate in a particular case (for example, January 1982 might be appropriate if eligibility begins in December 1981), reduced by 25 percent for the months of September 1982 through April 1983, by 50 percent for the months of September 1983 through April 1984, and by 75 percent for the months of September 1984 through April 1985. No benefits would be payable after July 1985.

These provisions would apply both to pensioners (veterans, surviving spouses, and surviving children) under the improved pension program and those receiving protected pension under section 306(a) of Pub. L. No. 95-588.

Because it was felt that the payment of Social Security survivors' benefits to young adults attending college is not a well-targeted use of the limited funds available to the Social Security program (in view of the many other educational assistance programs available to college students), Congress recently, in section 2210 of the Omnibus Budget Reconciliation Act of 1981, eliminated new benefits for student beneficiaries 18 or older in post-secondary school and 19 or older in secondary school, effective in August 1982. Reductions in benefits, comparable to those we propose here, were also made for current student beneficiaries, to be phased in over several years.

This provision--which will enable pensioners to continue receiving additional benefits for their children up to age 19 attending secondary school but eliminate future derivative pension benefits for adult college students and phase in, over a period of time, reductions in benefits for current beneficiaries--is thus consistent in part with the change in the Social Security program. Federal, State, and private programs to provide assistance to needy college students are already in place and provide a targeted approach to meeting their needs.

The amendment to title 38 would be effective October 1, 1982, and the other limitations and reductions would take effect upon enactment. Savings are estimated as $13.4 million in fiscal year 1983.

Overall Costs and Savings

Title I of the draft bill, if enacted, would result in costs for each of the next 5 fiscal years estimated to be $771 million in fiscal year 1983, $776.1 million in fiscal year 1984, $779.8 million in fiscal year 1985, $783.9 million in fiscal year 1986, and $787.6 million in fiscal year 1987.

Titles II and III of the draft bill, if enacted, would result in considerable cost savings. Set forth below are projected savings for each of the next 5 fiscal years:

[in thousands of dollars]

	FY 1982	1983	1984	1985	1986	1987
Sec. 201	---	---	-282,500	-296,000	-310,200	-336,100
202	---	-135,300	-138,000	-140,600	-150,200	-152,800
301	-3,400	- 28,800	- 30,700	- 32,400	- 34,100	- 36,800
302	---	- 3,225	- 3,536	- 3,937	- 4,216	- 4,592
303	-1,400	- 10,800	- 10,400	- 10,100	- 9,900	- 9,700
304	---	- 13,400	- 18,100	- 21,700	- 24,600	- 22,600
Total	-4,800	-191,525	-483,236	-504,737	-533,216	-562,592

Advice has been received from the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Bob Nimmo

ROBERT P. NIMMO
Administrator

OFFICIAL
FEB 12 1982

97th Congress
Second Session

H.R. ______

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I--COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101.(a) Section 314 is amended--

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$63";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$116";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$175";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$251";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$355";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$446";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$563";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$653";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$734";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,222";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,517" and "$2,125", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,517";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,672";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,900";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,125";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$912" and "$1,359", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,366"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$264".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended--

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$75";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$125";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$165";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$208" and "$41", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$51";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$93";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$133" and "$41", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$61";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$135"; and

(10) by striking out "$105" in clause (J) and inserting in lieu thereof "$114".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$330".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a)Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E--1	-------$449	W--4	-------$643
E--2	-------$463	O--1	-------$568
E--3	-------$473	O--2	-------$586
E--4	-------$504	O--3	-------$627
E--5	-------$518	O--4	-------$663
E--6	-------$530	O--5	-------$731
E--7	-------$556	O--6	-------$823
E--8	-------$586	O--7	-------$891
E--9	-------$613[1]	O--8	-------$976
W--1	-------$568	O--9	-------$1,049
W--2	-------$590	O--10	-------$1,147[2]
W--3	-------$608		

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$52".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$135".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$67".

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $659.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,230.".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended--

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$227";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$325";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$421"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$421" and "$85", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended--

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$135";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$227"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$116".

TITLE II--COMPENSATION AMENDMENTS

SEC. 201. Section 3104 is amended by adding at the end thereof the following new subsection:

> "(d) Where a rating of total disability based on individual unemployability resulting from service-connected disability has been assigned to any veteran in receipt of benefits under Title II of the Social Security Act or any other Federal program providing monetary benefits for disability or retirement, compensation under section 314 or 315 of this title for any month beginning after September 30, 1983, shall not exceed the greater of--

"(1) the amount payable to the veteran on the basis of the veteran's rating under Subpart B of Part 4 of title 38, Code of Federal Regulations, or

"(2) the amount payable to the veteran on the basis of the veteran's rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under Title II of the Social Security Act or such other Federal program.".

SEC. 202. Section 315, as amended by section 102 of this Act, is further amended by striking out "30 per centum," both places it appears and inserting in lieu thereof "50 per centum,".

TITLE III--MISCELLANEOUS AMENDMENTS

SEC. 301. Chapter 51 of title 38, United States Code, is amended--

(a) by inserting after section 3010 the following new section

"§ 3011. Commencement of the period of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension shall not be made for any period prior to the first day of the calendar month following the month in which the award became effective as provided under such section 3010 or other provision of law.

"(b) (1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period prior to such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.", and

(b) by inserting in the table of sections at the beginning of such chapter, after the item relating to section 3010, the following new item:

"3011. Commencement of the period of payment based on an award.".

SEC. 302. Clause (2) of subsection (b) of section 3012 is amended by striking out "of the calendar year" and inserting in lieu thereof "of the month".

SEC. 303. Section 3020 is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this title, any payment of monetary benefits under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588) or section 521, 541, or 542 of this title shall be made only in an amount that is a multiple of $1.

"(2) In determining the amount of any such payment, the Administrator shall--

"(A) first determine the amount payable without regard to paragraph (1) of this subsection and

"(B) if such amount is not a multiple of $1, then round such amount to the next lower multiple of $1.

"(3) The amount payable to a person under paragraph (1) of this subsection shall be considered as the amount of that person's monetary benefits for the purpose of all laws administered by the Veterans' Administration, and no person shall have any claim to the difference between the amount determined under clause (A) of paragraph (2) of this subsection and the amount payable under paragraph (1).".

SEC. 304. (a) Section 501 is amended by adding at the end thereof the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term "child" shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term "child" includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) of this section shall not apply to any child to or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 if such child has attained the age of eighteen years prior to October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112, or section 306(a) of Public Law 95-588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 or section 306(a) of Public Law 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall--

(A) not be paid for the months of May, June, July, and August, beginning with the month of May 1982;

(B) not be paid for any month after July 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of August 1981 (or a later month if the Administrator deems a later month appropriate under the circumstances), reduced by an amount--

(i) during the months after July 1982 and before August 1983, equal to 25 percent of the benefit payable for August 1981 (or such later month);

(ii) during the months after July 1983 and before August 1984, equal to 50 percent of the benefit payable for August 1981 (or such later month); and

(iii) during the months after July 1984 and before August 1985, equal to 75 percent of the benefit payable for August 1981 (or such later month); and

(D) not be paid for any month after July 1982 if such pension or additional pension is discontinued at any time after July 31, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who--

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

TITLE IV--EFFECTIVE DATES

SEC. 401. (a) The amendments made by sections 301 and 303 of this Act shall take effect on July 1, 1982.

(b) The amendments made by Title I and sections 202, 302, and 304(a) of this Act shall take effect on October 1, 1982.

(c) The amendment made by section 201 of this Act shall take effect on October 1, 1983.

(d) The provisions of subsections (b) and (c) of section 304 of this Act shall take effect upon the date of the enactment of this Act.

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

MARCH 12 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill to authorize the Administrator of Veterans Affairs to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots, which we request be introduced and receive favorable consideration.

Section 1819(a) of title 38, United States Code, currently authorizes veterans to purchase a new or used mobile home unit, a lot on which to place a previously acquired mobile home unit, or a combination of a new or used mobile home unit and a lot on which to place the unit. Section 1810(a)(5) authorizes veterans to refinance existing mortgage liens on conventional homes, but not mobile homes.

Although a veteran may own a mobile home unit outright, such unit is often located on a rented lot within a mobile home park. The VA has become aware that a significant number of rental mobile home parks are being converted into either a condominium or planned unit development form of ownership. When a park is so converted, the owners of mobile home units located within the park must either purchase the site or move their units to a new location at their own expense. Such a move can be quite expensive.

Lenders are often unwilling to finance the purchase of the lot unless the lender obtains a full security interest in the mobile home unit. Under these circumstances, a veteran would be precluded from using his or her VA mobile home loan entitlement (or remaining entitlement) to acquire a fee interest in the lot because current law does not permit refinancing mobile home loans.

This proposal is a natural extension of the mobile home program to assure that a veteran may keep his or her mobile home and keep it sited at its present location.

Costs associated with this proposal are estimated to be insignificant and will be absorbed by the VA.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

ROBERT P. NIMMO
Administrator

A BILL

To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1819(a)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

> "(G) To refinance existing liens which are secured of record on a mobile home unit owned and occupied by the veteran as the veteran's home, and simultaneously to purchase a lot on which such mobile home unit is or will be placed.".

SEC. 2. Section 1803(c)(3) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

> "(E) to refinance indebtedness and purchase a mobile home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance indebtedness and cover the costs of necessary site preparation.".

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

March 24, 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am enclosing a draft bill to amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) proceeds in the event the claim is filed more than four years after the insured's death. The bill would also clarify that SGLI-VGLI proceeds may not escheat to a State.

When a SGLI or VGLI claim is not filed within four years of the insured's death, present section 770(c) provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d)(1). The legislative history of a comparable provision added in 1962 to the Federal Employees' Group Life Insurance (FEGLI) program indicates that Congress intended to prevent unclaimed FEGLI proceeds from escheating to the insured's State of domicile, a purpose that is applicable to unclaimed SGLI-VGLI proceeds as well. However, nothing in the legislative history of section 770(c) indicates that Congress specifically intended to bar the payment of proceeds to otherwise entitled claimants whose claims are not filed within the four-year period. This bill, by amending section 770(c) to delete the language pertaining to escheat, from which a bar to payment of such claims is implied, would permit payment regardless of when the claim is filed, and thus make the SGLI-VGLI program consistent in this regard with the National Service Life Insurance (NSLI) and United States Government life insurance (USGLI) programs.

Both the NSLI and USGLI programs also specifically prohibit the escheat of NSLI and USGLI proceeds to a State. Otherwise such an escheat could occur, for example, if the insured dies without any relatives, or if a named beneficiary without any relatives dies prior to payment. The bill adds specific language to section 770 to prohibit the escheat of SGLI-VGLI proceeds and, where the proceeds are to be paid to an estate, to require affirmative evidence that the end result will not be an escheat.

There are no costs associated with the draft bill, which would be effective October 1, 1982.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposal to the Congress.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

Enclosure

97th Congress
Second Session

H.R. ____

A BILL

To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State.

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,

That section 770 of title 38, United States Code, is amended by--

(a) by amending subsection (c) by striking out the second sentence and

(b) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

Sec. 2. The amendment made by this Act shall take effect on October 1, 1982.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

March 24, 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Transmitted herewith is a draft bill, "To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims." It is requested that it be introduced and considered for enactment.

This measure would affect the portions of the insurance chapter relating to assignments in National Service Life Insurance and United States Government Life Insurance cases. The statutory provisions on assignments are contained in sections 718 and 753, respectively, and enumerate classes of relatives of the insured to whom the beneficiary may assign an interest in the proceeds. For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents. The class for USGLI assignments encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured. It should be noted that the insured is not restricted to a particular class in designating a beneficiary despite the limitations imposed on the beneficiary in disposing of the proceeds through assignment.

The current restrictions on assignments are considered to be administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may only direct payment to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases.

In many NSLI and USGLI cases, however, there is a contest between two or more persons as to the last designated beneficiary. These contests may not necessarily involve members of the class to which an assignment is possible, such as a former spouse with custody of children of the veteran or a close friend. It has been the experience of the Veterans Administration that contested claims to insurance proceeds may be resolved by an agreement between the claimants as to a division of the proceeds. An assignment from the named beneficiary to the contesting claimant of part of the proceeds is an efficient mechanism for effecting such an agreement and provides full acquittance of liability for the Veterans Administration. This method of resolution is not available, however, when the potential assignee is not within the class set forth in sections 718 and 753. Accordingly, claimants in those cases are forced to engage in time-consuming and expensive litigation, abandon their claims, or resort to an unsanctioned agreement, in which the Agency is not a participant, to divide the proceeds.

In view of the frequency with which similar situations occur, amendments to sections 718 and 753 are proposed in this draft bill which would permit assignments to be made in contested cases without regard to the restrictions now imposed. Thus, if this measure is enacted, extrajudicial settlement with full release of the Government's liability will be possible in virtually all contested cases when the parties have reached an amicable agreement regarding the proceeds.

The draft bill, if enacted, would not result in any additional cost to the Government.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposal to the Congress.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

A BILL

To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) Section 718 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that--

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

(b) Section 753 of title 38, United States Code, is amended by--

(1) inserting "(a)" before "Any";

(2) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that--

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

JUNE 15 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill "To amend section 1622 of title 38, United States Code, to permit the Administrator to utilize the Post-Vietnam Era Veterans Education Account for the administration of the education assistance program authorized by section 2141 of title 10, United States Code." I request that this measure be introduced and promptly enacted.

In the enactment of Title IX of Public Law 96-342, the Congress established a new, limited program for providing educational assistance to service personnel who enlisted or reenlisted in the military service between October 1, 1980, and October 1, 1981. The purpose of this program was to assist in inducing recruitment and retention of personnel in the armed services. The Congress determined the funding for this new program would be provided by the Department of Defense, but the program would be administered by the VA. No provision was made, however, concerning the handling of the funding by VA.

On the other hand, in creating the contributory Post-Vietnam Era Veterans' Educational Assistance program in 1976, provision was made in section 1622 of title 38, United States Code, for the establishment of a deposit fund account in the Treasury termed the "Post-Vietnam Era Veterans Education Account." This allows the VA to deposit funds received from the participating military services into this account.

Our proposed measure would allow the VA to deposit funds received from the military services for the new so-called "901" program into the same account, but would not allow commingling of the monies from the two programs.

The benefit accruing from this proposal is that the VEAP account is an established automated system which lends itself to the modifications required to run the 901 program. By allowing the VA to deposit 901 funds into the VEAP account, we would be able to use the fund for administration of both programs. The alternative to this would be the establishment of a completely manual system for the 901 program, one which on its face would be difficult and unwieldy to administer and thus unacceptable. To insure the integrity of proprietary funds being held for VEAP participants, money deposited for 901 participants would be posted to separate accounts. Thus, the funds would not lose their identity in the system.

Since individuals in the military will become eligible under the new 901 program on December 1, 1982, I urge that this proposal be introduced and given early favorable consideration by the Congress.

I have been advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

ROBERT P. NIMMO
Administrator

Enclosure

A BILL

To amend section 1622 of title 38, United States Code, to permit the Administrator to utilize the Post-Vietnam Era Veterans Education Account for the administration of the education assistance program authorized by section 2141 of title 10, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1622 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The fund established under subsection (a) of this section may be used by the Administrator for the purpose of receiving and disbursing funds received from the Secretary of Defense for administering the education assistance program authorized by section 2141 of title 10."

* * * * * * *

In response to requests by the Committee Chairman for comments on Amendment No. 1909, the Committee received a July 30, 1982, letter from the U.S. Department of Justice; an August 6, 1982, letter from the Secretary of Defense; an August 6, 1982, letter from the Department of Housing and Urban Development; an August 17 and 18, 1982, letters from the Office of Personnel Management; an August 18, 1982, letter from the U.S. Small Business Administration; an August 19, 1982, letter from the Secretary of Health and Human Services; an August 19, 1982, letter from the U.S. Department of Agriculture; and a September 8, 1982, letter from the Committee on Veterans' Affairs.

Those letters follow:

U.S. Department of Justice

Immigration and Naturalization Service

---

ce of the Commissioner

Washington, D.C. 20536

CO 703.1511

30 JUL 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

RE: Comments on Amendment No. 1909 as it relates to the Immigration & Nationality Act.

Dear Senator ~~Simpson~~: Al

This is in response to your letter of July 7, 1982, concerning amendment number 1909 to S. 2378.

Sections 28 and 29 of the Immigration and Nationality Act are the sections of the Act that relate to immigration benefits a person in or having served in the armed forces may receive.

After carefully reviewing Amendment No. 1909, it appears that the amendment will have no impact or effect on the above sections of the Immigration and Nationality Act.

Thank you very much for requesting our views in this matter.

Sincerely,

Al

Alan C. Nelson
Commissioner

170

THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

6 AUG 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Alan:

This responds to your letter of July 21, 1982 in which you request comments on Amendment 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

As stated in your letter, this amendment would supersede the provisions of section 977 of title 10, United States Code, and amend title 38, United States Code, to incorporate in that title a general two-year minimum-service requirement with respect to non-title 38 benefits, rights, and privileges (hereinafter referred to as "benefits") provided to veterans by reason of their active duty service.

The Department of Defense administers benefits programs for active and retired personnel and their dependents. Personnel who are discharged or who have otherwise severed their service connections are not the intended beneficiaries of these programs. Accordingly, the Department does not administer benefits to which section 977 of title 10 applies. Any other benefits that would accrue as a result of military service and could be affected by section 977 of title 10 are administered by agencies outside the Department of Defense.

For the reasons stated above, the Department of Defense has no objection to Amendment 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors Benefits Amendments of 1982."

Sincerely,

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF GENERAL COUNSEL

AUG 6 1982

IN REPLY REFER TO:

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Re. Amendment 1909 to S. 2378, 97th Congress (Simpson, et al.)

Dear Mr. Chairman:

Thank you for your letter requesting our views on the above legislation. We recently received your request in this office. We are now reviewing this bill to determine what interests or concerns this Department may have that should be reflected in our report on the bill.

Pending the final report, a preliminary review has disclosed the enclosed statutory and regulatory materials that describe program benefits that may be affected by the proposed amendment. The mortgage insurance programs are the only HUD programs likely to be affected by the proposed amendment. The home loan programs provide for a higher loan-to-value ratio and a lower downpayment for veterans purchasing or rehabilitating a home using a HUD-insured mortgage. The Rental Insurance and Interest Reduction Payment Section 236 Program gives a preference to the families of military personnel on active duty who meet the necessary income qualifications.

The proposed new section 3103A(d) states that, notwithstanding any other provision of law, a veteran would not be eligible for any benefits under Federal law by reason of a period of active duty less than two years or the full period for which such person was called or ordered to active duty, whichever is shorter. In order to qualify for the benefits of higher loan-to-value ratios and lower downpayments provided in HUD's home loan programs for homebuyers, the required period of active duty under current law is 90 days. The tenancy preference for the section 236 program is based on the military personnel's active duty status at the time of application, without any durational requirement.

Sincerely,

Edward Murphy
Associate General Counsel for
Legislation and Regulations

Enclosures

Excerpts from the National Housing Act (Public Law 479,
73rd Congress, 48 Stat. 12, U.S.C. 1701 et seq.)

INSURANCE OF MORTGAGES

SEC. 203. (a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) To be eligible for insurance under this section a mortgage shall—

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $76,000 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $92,000 in the case of a three-family residence, or $107,000 in the case of a four-family residence[27] except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133⅓ per centum of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house prices in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price; and (except[28] as provided in the next to the last sentence of this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum[29] of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii)[30] 95 per centum of such value in excess of $25,000. If the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of $25,000.[31] Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii)[28] the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction.

As used herein, the term "veteran" means any person who served on active duty in the armed forces of the United States for a period of not less than 90 days (or as certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable.

ATTACHMENT A

(i)[52] The Secretary is authorized to insure under this section, any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section[53] and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: *Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property: *Provided further*, That the Secretary finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further*, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land two and one-half[54] or more acres in size adjacent to an all-weather public road.[54]

Excerpts from Title 24 - Housing and Urban Development Regulations, Sections 203.18 and 203.19

§ 203.18 Maximum mortgage amounts

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the property shall not exceed the lesser of the amounts in paragraphs (a)(1) and (2) or (a)(1) and (3) of this section as follows:

(1) *Dollar limitation.* A dollar limitation of:

(i) $67,500 for a one-family residence.

(ii) $76,000 for a two-family residence.

(iii) $92,000 for a three-family residence.

(iv) $107,000 for a four-family residence.

(2) *Loan-to-value limitation—approval prior to construction.* A loan-to-value limitation of 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance (100 percent of such value or the sum of such value not in excess of $25,000 and the items of pre-paid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran) and 95 percent of such value in excess of $25,000, if the mortgage covers a dwelling which:

(i) Was approved for mortgage insurance prior to the beginning of construction, or

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs prior to the beginning of construction, or

(iii) Was completed more than one year prior to the date of the application for mortgage insurance, or

(iv) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction.

(3) *Loan-to-value limitation—no prior approval.* A loan-to-value limitation of 90 percent of the entire appraised value of the property, as of the date the mortgage is accepted for insurance, if the dwelling does not meet the requirements in the introductory text of paragraph (a)(2) of this section.

(b) *Veteran qualifications.* The special veteran terms provided in paragraph (a) of this section shall only be applicable to a mortgage covering a single family dwelling executed by a mortgagor who submits to the Commissioner one of the following certifications:

(1) A Certificate of Veteran Status from the Veterans Administration establishing that he has served 90 days or more on active duty in the armed forces (U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States and the Air National Guard of the United States) of the United States and was discharged or released therefrom under conditions other than dishonorable.

(2) A certificate issued by the Secretary of Defense establishing that the mortgagor performed extra hazardous service while serving in the armed forces for a period of less than 90 days.

§ 203.19 Mortgagor's minimum investment.

(a) At the time the mortgage is insured, the mortgagor shall have paid in cash or its equivalent the following minimum amount:

(1) In all cases (except those involving a veteran meeting the requirements of § 203.18(a)(3)), the minimum investment shall be at least 3 percent of the Commissioner's estimate of the cost of acquisition or such larger amount as the Commissioner may determine.

(2) In a case involving a veteran meeting the requirements of § 203.18(a)(3), the minimum investment shall be $200 which may include settlement costs, initial payments for taxes, hazard insurance premiums, mortgage insurance premiums, and other prepaid expenses as approved by the Commissioner.

ATTACHMENT B

REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE

SEC. 220.[143] (a) The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 203 and 207 of this title with a system of loan[144] and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of the section.

(b) The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) As used in this section, the terms "mortgage," "first mortgage," "mortgagee," "mortgagor," "maturity date," and "State" shall have the same meaning as in section 201 of this Act.

(d) to be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A)[145] be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 before the effective date of the Housing Act of 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended) or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949, as amended, or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949, or (v) an area designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation:[146] *Provided*, That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further*, That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) A mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3)[147] The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed the applicable maximum principal obligation which may be insured in the area under section 203(b); or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 203(b)[148] plus not to exceed $9,165[149] for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum to (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90[150] per centum) of $25,000[151] of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance, and (2) 95 per centum of such value in excess of $25,000[151]: *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*,[152] That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of $25,000[153] of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of $25,000.[153] As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or as certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable;

(ii)[154] in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, have a principal obligation in an amount not to exceed 93 per centum of the amount computed under the provisions of clause (i);

(iii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for the purpose of sale, have a principal obligation in an amount not to exceed 85 per centum of the amount computed under the provisions of clause (i), or in the alternative, in an amount equal to the amount computed under the provisions of clause (i) if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof, or by such greater amount as may be required to meet the limitations of clause (i), in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; and

(iv) in no case involving refinancing (except as provided in clause (iii)) have a principal obligation in an amount exceeding the sum of the estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)(i)[155]

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost[156] of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance[157] for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided*,[158] That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That in no case involving refinancing shall such mortgage exceed such estimated cost

C.F.R. Title 24

specting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and there exists the necessary authority and financial capacity to insure completion of such urban renewal plan.

§ 220.15 Standards and conditions of acceptability.

The mortgaged property shall meet such standards and conditions as the Commissioner shall prescribe to establish the acceptability of such property for mortgage insurance. These shall include standards and conditions designed to restore the quality of the area to a condition which would justify mortgage insurance.

§ 220.20 Dwelling units on property.

At the time the mortgage is insured, there shall be located on the mortgaged property a dwelling designed principally for residential use of not more than 11 families. Such dwellings may be connected with other dwellings by a party wall or otherwise. Any such dwelling shall be constructed or rehabilitated pursuant to an urban renewal plan approved by the Secretary as provided in section 220(d)(1)(A) of the National Housing Act, as amended.

§ 220.25 Maximum mortgage amounts—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation set forth in § 203.18(a)(1) or § 203.18(b) plus not to exceed $9,165 for each additional unit in excess of four.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

[45 FR 76389, Nov. 18, 1980]

§ 220.30 Maximum mortgage amounts—loan-to-value limitation.

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the property shall not exceed the following:

(1) *New construction—prior approval.* If the mortgage covers a dwelling which is approved for mortgage insurance prior to the beginning of construction, the sum of the following percentages of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran).

(ii) 95 percent of such estimate in excess of $25,000.

(iii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the amount of such estimate in excess of $35,000.

(2) *New construction—no prior approval.* If the mortgage covers a new dwelling under construction which is approved for mortgage insurance after the beginning of construction, 90 percent of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 90 percent of the first $35,000 of such estimate.

(ii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the amount of such estimate in excess of $35,000.

(3) *Existing construction—prior approval.* If the mortgage covers an existing dwelling approved for mortgage insurance prior to the beginning of construction or the construction of which has been completed for more than 1 year, the sum of the Commissioner's estimate of the cost of repair or rehabilitation added to the Commissioner's estimate of the value of the property before rehabilitation in the following percentages:

(i) 97 percent of the first $25,000 of the sum of such estimates (100 percent of $25,000 of the sum of such estimates or an amount derived by adding to the sum of such estimates not in excess of $25,000 the items of prepaid expense approved by the Commissioner and deducting $200, whichever appraisal amount or total amount is the lesser, in the case of a mortgagor qualifying as a veteran).

(ii) 95 percent of such estimates in excess of $25,000.

(iii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the sum of such estimates in excess of $35,000.

(4) *Existing construction—no prior approval.* If the mortgage covers an existing dwelling which was not approved for mortgage insurance prior to the beginning of construction and the construction of which has been completed less than 1 year, 90 percent of the sum of the Commissioner's estimate of the cost of repair or rehabilitation added to the Commissioner's estimate of the value of the property before rehabilitation.

(5) *Refinancing.* In a case under paragraph (a) (3) or (4) of this section involving the refinancing of an existing indebtedness, the sum of the following:

(i) The estimated cost of repair and rehabilitation.

(ii) The amount (as determined by the Commissioner) required to refinance the existing indebtedness secured by the property.

(iii) Any existing indebtedness (as determined by the Commissioner) incurred in connection with improving, repairing, or rehabilitating the property.

(b) *Veteran qualifications.* The special veteran terms provided in paragraph (a) of this section shall only be applicable to a mortgage covering a single family dwelling executed by a mortgagor who submits to the Commissioner one of the following certifications:

(1) A Certificate of Veteran Status from the Veterans Administration establishing that he has served 90 days or more on active duty in the Armed Forces (U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States and the Air National Guard of the United States) of the United States and was discharged or released therefrom under conditions other than dishonorable.

(2) A certificate issued by the Secretary of Defense establishing that the mortgagor performed extra hazardous service while serving in the Armed Forces for a period of less than 90 days.

(c) *Nonoccupant mortgagors.* (1) A mortgage, executed by a mortgagor who is not the occupant of the property and who certifies to the Commissioner that he intends to hold the property for rental purposes, shall not exceed 93 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, or 100 percent of an amount computed under paragraph (a)(5) of this section.

(2) A mortgage, executed by a mortgagor who is not the occupant of the property and who certifies to the Commissioner that he intends to hold the property for the purpose of the sale, shall not exceed:

(i) 85 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, or 100 percent of any amount computed under paragraph (a)(5) of this section.

(ii) 100 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, without taking into consideration the refinancing limitations in paragraph (a)(5) of this section, if the mortgage covers a one- or two-family residence and the Commissioner is furnished with certificates indicating that:

(*a*) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property prior to the 18th amortization payment of the mortgage, except with the prior written approval of the Commissioner.

(*b*) There has been deposited in an escrow, trust, or special account not less than 15 percent of the original principal amount of the mortgage proceeds or such additional amount as may be necessary to reduce the remaining principal to an amount not exceeding the sum of the estimated cost of repairs and rehabilitations, and the amount required to refinance any existing indebtedness determined by the Commissioner to have been incurred in connection with improving, repairing or rehabilitating the property.

mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. The appropriate provisions of sections 204 and 207 relating to the issuance of debentures shall apply with respect to debentures issued under this subsection, and the appropriate provisions of sections 204 and 207 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this subsection, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages insured under this section (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) all references in section 204 to section 203 shall be construed to refer to this section (g).[315]

MORTGAGE INSURANCE FOR CONDOMINIUMS

SEC. 234.[316] (a) The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

(b) The terms "mortgage," "mortgagee," "mortgagor," "maturity date," and "State" shall have the meanings respectively set forth in section 201, except, that the term "mortgage" for the purpose of subsection (c) may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-detached, or detached,[317] and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term "common areas and facilities" as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

(c) The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project if (1) the mortgage meets the requirements of this subsection and of section 203(b), except as that section is modified by this subsection, (2) the project is or has been covered by a mortgage insured under any section (except section 213(a) (1) and (2)) of this Act or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing:[318] *Provided*,[319] That a one-family unit in a multifamily project involving eleven or less units, or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance, shall be eligible for insurance without having been covered by a project mortgage, and (3) the mortgagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection. Any project proposed to be constructed or rehabilitated after the date of enactment of the Housing Act of 1961[320] with the assistance of mortgage insurance under this Act, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed $67,500,[321] except that the Secretary may increase such maximum dollar amount on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the median one-family house price in the area, as determined by the Secretary;[321] and not to exceed the sum of (i) 97 per centum (100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)[322] of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and (ii) 95 per centum of such value in excess of $25,000,[323] and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage.[324] In determining the amount of a mortgage in the case of a nonoccupant mortgagor the reference to paragraph (2) of section 203(b) in section 203(b)(8) shall be construed to refer to the preceding sentence in this subsection. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the mulitfamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this Act other than section 213(a) (1) and (2) to be released from the liens of those mortgages.

(d)[325] In addition to individual mortgages insured under subsection (c), the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabili-

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Secretary may prescribe) of the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(g) *Projects not covered by an insured or Secretary-held mortgage.* Projects which are not covered by an insured project or Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance or direct loan programs shall meet the following additional requirements:

(1) Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium;

(ii) Convert common elements into additional units or limited common elements;

(iii) Withdraw land from the condominium;

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(2) At least 70 percent (or such lesser percentage as the Commissioner may prescribe) of the family units shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(Sec. 211 of the National Housing Act (12 U.S.C. 1708, 1715))

the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(h) *Conditions and Provisions.* The Commissioner may require such conditions and provisions as he/she deems necessary including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

[45 FR 60426, Sept. 12, 1980]

§ 234.27 Maximum mortgage amounts.

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the unit shall not exceed the lesser of the following:

(1) $67,500.

(2) 97 percent of the first $25,000 of the Commissioner's estimate of the appraised value of the family unit as of the date the mortgage is accepted for insurance, (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraised amount or sum is the lesser in the case of a mortgagor meeting the veteran qualification provided in § 203.18(b)), and 95 percent of such value in excess of $25,000.

(b) *Increased mortgage amount.* The dollar limitations specified in paragraph (a)(1) of this section are increased to the amounts set forth in Appendix A to this part, for the geographical areas indicated in the appendix. In any geographical area where the Commissioner finds that middle- and moderate-income persons have limited housing opportunities due to the high prevailing housing sales

(ii) Such amount less than 25 percent of his adjusted monthly income as represents the utility allowance established by the Secretary, based on data originating from the appropriate utility, for the utility charges to be paid by such tenant, but in no case less than 20 percent of the tenant's adjusted monthly income with respect to any units for which the basic monthly rental charge has been determined pursuant to paragraph (a)(1)(ii) of this section.

(2) In no event shall the monthly rental exceed the fair market rental.

(c) *Adjustments in utility allowances.* In the event of any change in utility rates which results in a cumulative increase of 10 percent or more in the cost of those utilities included in the latest approved personal benefit expense, the project owner shall advise the Secretary and request approval of a new allowance for utilities.

(d) *Application of terms.* In the case of a cooperative project, the term "rental charge" as used in this subpart shall mean the charges under the occupancy agreement of members of the cooperative.

(Sec. 7(d), of the HUD Act; 42 U.S.C. 3535(d))

[41 FR 42950, Sept. 29, 1976, as amended at 43 FR 23568, May 31, 1978]

§ 236.56 Determination of project feasibility—fair market rentals.

(a) In the determination of project feasibility prior to issuing a commitment for mortgage insurance under this part, the fair market rentals estimated in accordance with § 236.55(a)(2) shall be at a level that can be expected to attract nonsubsidized tenants, who will pay fair market rentals, and shall not exceed the rentals obtainable for reasonably comparable nonsubsidized rental dwelling units similarly located. Adjustments may be made in such rentals to reflect additional management services such as increased tenant screening, counseling, and income certification and recertifications.

(b) In determining the feasibility of a project to be located in a deteriorating residential neighborhood, the Commissioner may determine a project to be feasible with estimated fair market rental levels in excess of those than can be expected to attract nonsubsidized tenants in that neighborhood provided that:

(1) The estimated fair market rentals do not exceed estimated fair market rentals obtainable in comparable projects in more stable neighborhoods, and

(2) The proposed project can be expected to contribute to the stabilization or improvement of the neighborhood.

[37 FR 7157, Apr. 11, 1972]

§ 236.60 Excess rental charges.

The mortgagor shall agree to pay monthly to the Commissioner the total of all rental charges collected in excess of the sum of the approved basic or temporary basic rental charges (as adjusted, if applicable, for tenant-paid utilities and/or tax and utility subsidy program) for all occupied units exclusive of the Tax and Utility Subsidy payment.

(Sec. 7(d), of the HUD Act; 42 U.S.C. 3535(d))

[43 FR 23568, May 31, 1978]

§ 236.65 Mortgagor's oath as to selection of tenants and transient occupancy.

The mortgagor shall certify under oath to the Commissioner, that as long as the Commissioner is the insurer, holder or reinsurer of the mortgage, the mortgagor will not:

(a) In selecting tenants for the project covered by the mortgage, discriminate against any family because there are children in the family.

(b) Rent, permit the rental or permit the offering for rental of the housing or any part thereof, covered by such mortgage, for transient or hotel purposes. For the purposes of this certificate, the term "rental for transient or hotel purposes" shall mean (1) rental for any period less than 30 days, or (2) except in the case of a project designed primarily for occupancy by elderly or handicapped persons, any rental which includes the provision of customary hotel services such as room service for food and beverages, furnishing and laundering of linens, maid service and bellboy service.

(c) Sell the project, unless the purchaser also agrees to comply with the requirements of paragraphs (a) and (b) of this section.

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* Initial occupancy of the project by tenants who re eligible and do not pay the fair arket rental shall be restricted to ndividuals and families determined by he mortgagor as meeting the income equirements established by the Commission. Nonimmigrant student-liens, as defined in this Subpart, who re unable to pay the fair market rent will not be eligible for admission to the project.

for whom the project was designed and who meet the income requirements established by the Commissioner.

✓ (c) *Preference for military personnel and displacees.* (1) Whenever the Commissioner determines that a project, because of its location or other considerations, could ordinarily be expected to substantially serve the family needs of military personnel who are serving on active duty and meet the income requirements established by the Commissioner, such preference for occupancy shall be afforded to the family of such military personnel as the Commissioner determines is appropriate.

(2) In all projects preference or priority to occupy dwelling units shall be given to displacees provided that in a project designed for the handicapped or the elderly, preference for displacees shall be limited to those who are within the category for whom the project was designed.

* * * * *

(d) *Nonimmigrant Student-Aliens.* A onimmigrant student-alien shall not be ligible for rents described in § 236.55(b) of this Subpart less than the fair market ental; provided, however, that if such lien is a tenant in a project receiving nterest reduction payments and, as a esult thereof, is paying rent based on § 236.55(b) of this Subpart on November 7, 1981, such alien may continue to pay such rental charge provided in such lease until expiration of the current term of such lease. When the lease of a onimmigrant student-alien providing for a rental charge less than the fair

ment, the applicant has an adequate income to pay the basic monthly rental charge. If the applicant's income appears inadequate, the factors listed below, in addition to the applicant's income, shall be taken into consideration in making a determination of whether he will be able to pay the basic monthly rental charge. The project owner or his managing agent shall maintain supporting written documentation for the decision to admit or reject an applicant for assisted admission based upon these factors.

(1) A local welfare or other agency has agreed to pay all or a portion of the basic monthly rental charge.

(2) The applicant is 62 years of age or older.

(3) The applicant is a qualified tenant on whose behalf the project owner will receive rent supplement payments under Part 215 of this title, or rental assistance payments under Part 236 and Part 426 of this title.

(4) The applicant has established a history of rent-paying ability at levels equal to or greater than basic rent.

(5) The applicant has sufficient income, when considered together with other assets, to pay the basic monthly rental charge for a reasonable period.

(6) The applicant receives food stamps, surplus commodities or similar benefits that favorably affect the applicant's ability to pay rent.

(7) Such other factors as, in the judgment of the project owner or his managing agent, bear favorably upon the applicant's ability to pay rent.

(c) *Preference for applicants within lowest practicable income limits.* The project owner or his managing agent shall accord a preference to applicants for assisted admission whose incomes are within the lowest practicable income limits and who meet the requirements of paragraphs (a) and (b) of this section.

(d) *Projects utilizing income limitations in effect subsequent to August 22, 1974.* The preference provided for in paragraph (c) of this section is not applicable to projects utilizing income limitations in effect subsequent to August 22, 1974.

United States of America
**Office of
Personnel Management**

Office of the General Counsel
Washington, D.C. 20415

In Reply Refer To

AUG 17

Your Reference

Mr. Edward Scott
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Scott:

This letter responds to your request for our comments and technical assistance with regard to the effects of Amendment No. 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

I have reviewed the amendment, with particular attention to the new subsection (d)(3)(b)(ii) to section 401 which would amend 38 U.S.C. 3103A to require a two-year period of minimum service for entitlement to certain benefits as a result of active duty service. This section is to supersede the provisions of section 977 of title 10, United States Code.

Without commenting upon the substantive merits of the proposed new subsection (d)(3)(b)(ii), I note that its immediate effect would be to amend the definition of the term "preference eligible" as it presently exists in 5 U.S.C. § 2108(3). The practical effect of the amendment is to allow the title 5 definition to continue to exist without any evidence on its face, or, indeed, anywhere else in title 5, United States Code, of a very important change having been made to it.

Thus, the very integrity of not only the section in question, but also, possibly, of the whole title may be impaired for purposes of future reference. A researcher would now be required to go outside a title of the Code, despite the fact that it has been codified, and exhaust all other titles to assure himself that there have been no other changes made to a section in question.

Since the very nature of codification is to draw all materials and references into one central place for ready reference, the net effect of this amendment is to cause us to revert to pre-codification days, at least in this one instance.

Naturally, as the General Counsel of OPM, I believe I must counsel against a legislative proposal that would bring about such a situation.

I hope that my comments have been of some assistance to you.

Sincerely yours,

Joseph A. Morris

Joseph A. Morris
General Counsel

United States of America
**Office of
Personnel Management** Washington, D.C. 20415

In Reply Refer To: AUG 18 1982 Your Reference

Honorable Alan K. Simpson
Chairman, Committee on Veterans'
Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in reply to your July 7, 1982 request for the views of the Office of Personnel Management on Amendment No. 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

This amendment would provide a two year military service requirement for veterans' preference eligibility in Federal employment. Current law does not have a minimum service requirement for eligibility for veterans' preference. Thus, the amendment limits the number of veterans who would be eligible for preference. OPM is opposed to this limitation on eligibility for veterans' preference. We therefore, propose that the veterans' preference provision in the 1909 amendment to S. 2378 be deleted, and that no limitations be placed on current eligibility requirements for veterans' preference.

You have requested our views on section 977 of title 10 and how OPM interprets it. OPM's General Counsel has determined that title 5, rather than title 10, governs the application of veterans' preference in Federal employment. Veterans' preference is a provision of law which governs Federal employment. Accordingly, it is not in the same category as the broad range of programs, services, and benefits that the VA administers under titles 10 and 38 such as death benefits, hospitalization or pensions. Veterans' preference is a separate body of law with its own history and eligibility requirements and is codified in title 5, United States Code, rather than in titles 10 or 38, United States Code. Essentially, this is because veterans' preference provisions are different from the veteran entitlement provisions in titles 38 and 10, U.S.C.

The Office of Management and Budget advises that from the standpoint of the Administration's Program there is no objection to the submission of this report.

Sincerely,

Donald J. Devine
Director

CON 114-24-3
January 1979

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

AUG 18 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in further response to your request for the comments of the Small Business Administration (SBA) on Amendment No. 1909 as it would affect this Agency. Amendment No. 1909 would supercede section 977 of title 10, United States Code, and would incorporate in title 38, United States Code, provisions for a general two-year minimum service requirement with respect to non-title 38 benefits, rights and privileges provided to veterans by reason of their active duty service.

Subsection 4(b)(1) of the Small Business Act provides, in pertinent part:

> "In carrying out the programs administered by the Small Business Administration, . . . the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States. . . ."

In compliance with this provision of the Small Business Act, SBA presently affords veterans a preference in the processing of applications for participation in existing programs. At this time, however, no one becomes eligible for any SBA program solely by reason of serving on active duty in the Armed Forces. Therefore, the proposed amendment would not affect the SBA or the applicants to or participants in SBA programs.

Sincerely,

James C. Sanders
Administrator

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

AUG 1 9 1982

The Honorable Alan K. Simpson
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for a report on Amendment No. 1909 to S. 2378, a bill "To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs, and for other purposes".

Present law now generally provides that members of the uniformed services must serve a minimum of two years in order to qualify for federally furnished rights, privileges, and benefits based on their active duty service. Amendment No. 1909 would conform the minimum service requirement applicable to rights, privileges and benefits administered by agencies other than the Veterans' Administration (VA) to that now applicable to VA programs. The amendment would also clarify that the only provision of the Social Security Act to which the 2-year minimum service requirement applies is section 229, which authorizes the granting of deemed military wage credits.

Since the deemed military wage credits authorized by the Social Security Act are the only benefits administered by this Department that are now affected by the minimum service requirement, we would have no objection to the adoption of Amendment No. 1909 insofar as it directly affects this Department. Of course, we defer to the views of other agencies also affected by the amendment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Secretary

United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

AUG 19 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Simpson:

This is in reply to your letter of August 6, 1982, requesting our comments on Amendment No. 1909 to the bill S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

We have determined that this proposed legislation would have no bearing on programs administered by the Farmers Home Administration. We therefore defer to agencies whose programs would be affected.

Sincerely,

for CHARLES W. SHUMAN
Administrator

FmHA Farmers Home Administration is an Equal Opportunity Lender
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

ALAN K. SIMPSON, WYO., CHAIRMAN

STROM THURMOND, S.C.
ROBERT T. STAFFORD, VT.
BOB KASTEN, WIS.
JEREMIAH DENTON, ALA.
FRANK H. MURKOWSKI, ALASKA
ARLEN SPECTER, PA.

ALAN CRANSTON, CALIF.
JENNINGS RANDOLPH, W. VA.
SPARK M. MATSUNAGA, HAWAII
DENNIS DE CONCINI, ARIZ.
GEORGE J. MITCHELL, MAINE

THOMAS K. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

September 8, 1982

Honorable Alan C. Nelson
Commissioner
Immigration and Naturalization Service
Department of Justice
Washington, D. C. 20536

Dear Al:

Thank you for your response to my request for comments on Amendment No. 1909 to S. 2378.

Your letter indicated that, in your view, this amendment will have no impact or effect on the provisions of the Immigration and Nationality Act (INA) -- sections 328 and 329, (8 U.S.C. §1439 and 1440, respectively) -- those related to immigration and naturalization benefits based on service in the Armed Forces of the United States. Your response did not directly address the question that I had asked regarding the applicability of present section 977 of title 10, United States Code, to those benefits.

Upon review of your response, I believe that certain clarifications are necessary with respect to the effects of section 977 of title 10 on the eligibility for such naturalization benefits of those to whom that section applies.

First, INA section 328 provides for the waiver of the residency requirement for one who has served in the Armed Forces at any time for a period or periods aggregating three years, and it is my understanding that that three-year service requirement has been interpreted as including periods of reserve status. Thus, it would appear that, in certain instances of individuals who originally enlist in a regular component of the Armed Forces after September 7, 1980, they may satisfy the requirement of INA section 328 through a combination of active duty and reserve status but, upon failing to complete 24 months of their enlistments, be subject to the bar to benefits set forth in section 977 of title 10. In such cases, would not section 977 preclude eligibility for the INA section 328 benefits?

Second, under INA section 329, it is my understanding that age and residency requirements are generally to be waived for individuals who serve in an active-duty status during any future period that the President by Executive Order designates as a period in which the Armed Forces of the United States are engaged in certain military operations involving armed conflict and who, if separated from such service, are separated under honorable conditions. In the cases of individuals to whom section 977 applies, who are separated under honorable conditions, but who fail to meet that section's 24-month service requirement, would not section 977 preclude eligibility for the section 329 benefit?

If your answer to either of the foregoing questions regarding the application of section 977 of title 10 is that its provisions would preclude eligibility for naturalization benefits under INA section 328 or 329, I would appreciate your reconsidering your position on the effects that the provisions of Amendment No. 1909 would have on section 328 and 329 benefit eligibilities and providing me with your further comments on the provisions of the amendment.

In light of the fact that the Committee is planning to file its report on legislation incorporating the provisions of Amendment No. 1909 by September 17, I ask that you make every effort to expedite your response to this letter.

As always, I greatly appreciate your cooperation.

With warm personal regards,

Sincerely,

Alan K. Simpson
Chairman

AKS/bng

Changes in Existing Law Made by S. 2913 as Reported

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10—ARMED FORCES

* * * * * * *

CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
973. Duties: officers on active duty; performance of civil functions restricted.
975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.
976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.
[977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.]

* * * * * * *

[§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

[(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

[(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.]

* * * * * * *

TITLE 38—UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

Subchapter IV—Veterans Outreach Sevices Program

* * * * * * *

§ 243. Veterans' representatives

[(a)(1) Except as otherwise provided in paragraph (4) of this subsection, the Administrator shall assign, with appropriate clerical-secretarial support, to each educational institution (as defined in section 1652(c) except for correspondence schools) where at least five hundred persons are enrolled under chapters 31, 34, 35, and 36 of this title such number of full-time veterans' representatives as will provide at least one such veterans' representative per each five hundred such persons so enrolled at each such institution; and the Administrator shall also assign to other such veterans' representatives responsibility for carrying out the functions set forth in paragraph (3) of this subsection with respect to groups of institutions with less than five hundred such persons so enrolled, on the basis of such proportion of such veterans' representatives' time to such persons so enrolled as he deems appropriate to be adequate to perform such functions at such institutions.

[(2) In selecting and appointing veterans' representatives under this subsection, preference shall be given to veterans of the Vietnam era with experience in veterans affairs' counseling, outreach, and other related veterans' services.

[(3) The functions of such veterans' representatives shall be to—

[(A) answer all inquiries related to Veterans' Administration educational assistance and other benefits, and take all necessary action to resolve such inquiries expeditiously, especially those relating to payments of educational assistance benefits;

[(B) assure correctness and proper handling of applications, completion of certifications of attendance, and submission of all necessary information (including changes in status or program affecting payments) in support of benefit claims submitted;

[(C) maintain active liaison, communication, and cooperation with the officials of the educational institution to which assigned, in order to alert veterans to changes in law and Veterans' Administration policies or procedures;

[(D) supervise and expeditiously resolve all difficulties relating to the delivery of advance educational assistance payments authorized under this title;

[(E) coordinate Veterans' Administration matters with, and provide appropriate briefings to, all on-campus veterans' groups, working particularly closely with veterans' coordinators at educational institutions receiving veterans' cost-of-instruction payments under section 420 of the Higher Education Act of 1965, as amended (hereinafter referred to as "V.C.I. institutions");

[(F) provide necessary guidance and support to veteran-student services personnel assigned to the campus under section 1685 of this title;

[(G) where such functions are not being adequately carried out by existing programs at such institutions (i) provide appropriate motivational and other counseling to veterans (informing them of all available benefits and services, as provided for under section 241 of this title) and (ii) carry out outreach activities under this subchapter; and

[(H) carry out such other activities as may be assigned by the director of the Veterans' Administration regional office, established under section 230 of this title.

[(4) Based on the extent to which the functions set forth in paragraph (3) of this subsection are being adequately carried out at a particular educational institution or in consideration of other factors indicating the inappropriateness of assignment of veterans' representatives to a particular educational institution, the director of the appropriate Veterans' Administration regional office shall, notwithstanding the formula set forth in paragraph (1) of this subsection, either reallocate such veterans' representatives to other educational institutions in such region where he determines that such additional veterans' representatives are necessary, or, with the approval of the chief benefits officer of the Veterans' Administration, assign such veterans' representatives to carry out such functions or related activities at the regional office in question, with special responsibility for one or more than one particular educational institution.

[(5) The functions of a veterans' representative assigned under this subsection shall be carried out in such a way as to complement and not interfere with the statutory responsibilities and duties of persons carrying out veteran affairs' functions at V.C.I. institutions.

[(b) The Administrator shall establish rules and procedures to guide veterans' representatives in carrying out their functions under this section. Such rules and procedures shall contain provisions directed especially to assuring that the activities of veterans' representatives carried out under this section complement, and do not interfere with, the established responsibilities of representatives recognized by the Administrator under section 3402 of this title.]

The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.

* * * * * * *

PART II—GENERAL BENEFITS

* * * * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be [$58] *$62*;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be [$107] *$114*;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be [$162] *$173*;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be [$232] *$249*;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be [$328] *$352*;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be [$413] *$443*;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be [$521] *$559*;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be [$604] *$648*;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be [$679] *$729*;

(j) if and while the disability is rated as total the monthly compensation shall be [$1,130] *$1,213*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,403] *$1,506* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$1,966] *$2,111* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,403] *$1,506*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be **[**$1,547**]** *$1,661*;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, *or has suffered total blindness without light perception in both eyes,* the monthly compensation shall be **[**$1,758**]** *$1,888*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be **[**$1,966**]** *$2,111*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity of less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;

[(q)**]**

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the ratre of [$844] *$906; or*

(2) if the veteran, in addition to such need of regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,257] *$1,350,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veteran's Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,264] *$1,357.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by **[**$244**]** *$262.*

(2) If a veteran described in paragraph (1) of this subsection received any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

[(A) has a spouse but no child living, $69;

[(B) has a spouse and one child living, $116;

[(C) has a spouse and two children living, $153;

[(D) has a spouse and three or more children living, $192 (plus $38 for each living child in excess of three);

[(E) has no spouse but one child living, $47;

[(F) has no spouse but two children living, $86;

[(G) has no spouse but three or more children living, $123 (plus $38 for each living child in excess of three);**]**

(A) has a spouse but no child, $74;

(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;

[(H)**]** *(D)* has a parent dependent upon such veteran for support, then, in addition to the above amounts, **[**$56**]** *$60* for each parent so dependent;

[(I)**]** *(E)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be **[**$125**]** *$134* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

[(J)**]** *(F)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be **[**$105**]** *$112* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

* * * * * * *

Subchapter VI—General Compensation Provisions

* * * * * * *

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$305] *$327* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

* * * * * * *

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

* * * * * * *

Subchapter II—Dependency and Indemnity Compensation

* * * * * * *

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was *or but for a clear and unmistakable error would have been* in receipt of (or but for the receipt of retired or retirement pay was *or but for a clear and unmistakable error would have been* entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service-connected.

(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits

that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

(c) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	$415	W-4	$595
E-2	428	O-1	525
E-3	438	O-2	542
E-4	466	O-3	580
E-5	479	O-4	613
E-6	490	O-5	676
E-7	514	O-6	761
E-8	542	O-7	824
E-9	[1] 567	O-8	903
W-1	525	O-9	970
W-2	546	O-10	[2] 1,061
W-3	562		

]

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$445*	*W-4*	*$639*
E-2	*459*	*O-1*	*563*
E-3	*470*	*O-2*	*582*
E-4	*500*	*O-3*	*622*
E-5	*514*	*O-4*	*658*
E-6	*526*	*O-5*	*726*
E-7	*552*	*O-6*	*817*
E-8	*582*	*O-7*	*884*
E-9	[1] *608*	*O-8*	*969*
W-1	*563*	*O-9*	*1,041*
W-2	*586*	*O-10*	[2] *1,139*
W-3	*603*		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$610] *$655*.

If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$1,138] *$1,222*.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthy to the surviving spouse shall be incresed by **[**$48**]** *$51* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$125**]** *$134* is the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$62**]** *$66* if the surviving spouse is, by reason of disability, permanenty housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * * * *

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the decceased veteran at the following monthly rates:

(1) one child **[**$210**]***$225*
(2) two children,**[**$301**]**;*$323*
(3) three children, **[**$389**]** *$417;*
(4) more than three children, **[**$389**]**, *$417,* plus **[**$79**]** *$84* for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a corse of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[**$125**]** *$134.*

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$210**]** *$225.*

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$107**]** *$114.*

* * * * * * *

CHAPTER 19—INSURANCE

* * * * * * *

Subchapter I—National Service Life Insurance

* * * * * * *

§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing on or after the date of enactment of this sentence.

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing on or after the date of enactment of this sentence is payable may assign all or any portion of such person's interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons,

each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.

* * * * * * *

§ 753. Assignments

(a) Any person to whom United States Government life insurance shall be payable may assign such person's interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.

* * * * * * *

Subchapter III—Servicemen's Group Life Insurance

* * * * * * *

§ 770. Beneficiaries; payment of insurance

(a) * * *

* * * * * * *

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. [If, within four years after the death of the member or former member, payment has not been made pursuant to this section and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 769(d).]

* * * * * * *

(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.

* * * * * * *

CHAPTER 23—BURIAL BENEFITS

* * * * * * *

§ 902. Funeral expenses

(a) * * *

* * * * * * *

(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

(A) there is no next of kin or other person claiming the body of such deceased veteran;

(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of

this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * * * *

§ 1503. Periods of eligibility

(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

(b)(1)*(A)* In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

(B)(i) Subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

(iii) Subdivision (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this

subparagraph are published in the Federal Register, whichever is the latest.

(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.

* * * * * * *

§ 1508. Allowances

(a)(1) * * *

* * * * * * *

(g)[(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no] No subsistance allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(2) Paragraph (1) of this subsection shall *not* apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony. [if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.]

* * * * * * *

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

* * * * * * *

Subchapter II—Eligibility; Contributions; and Matching Fund

§ 1622. Contributions; matching fund

(a) * * *

* * * * * * *

(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the Fund.

A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of **[**$75**]** *$100* per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.

(e) The Administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purpose.

* * * * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * * * *

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

1690. Purpose.
1691. Elementary and secondary education and preparatory educational assistance.
1692. Special supplementary assistance.
1693. Effect on educational entitlement.
1694. Reimbursement by the Secretary of Defense.

Subchapter I—Purpose—Definitions

* * * * * * *

§ 1652. Definitions

(a) * * *

* * * * * * *

(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of **[**402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))**]** *section 7(i) of the Small Business Act (15 U.S.C. 636(i)).*

* * * * * * *

Subchapter II—Eligibility and Entitlement

* * * * * * *

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955, *and before January 1, 1980;* except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (4) of this subsection,* such veteran shall, upon application, made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (4)(B)(ii) of this subsection)* as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence *because of such disability,* the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title, after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after the date of enactment of this paragraph or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.

(3)(A) Subject to subparagraph (C) of this paragraph and notwithstanding the provisions of paragraph (1) of this subsection, an eligible veteran who served on active duty during the Vietnam era shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purpose of pursuing—

(i) a program of apprenticeship or other on-job training;

(ii) a course with an approved vocational objective; or

(iii) a program of secondary education, if the veteran does not have a secondary school diploma (or an equivalency certificate).

(B) Upon completion of a program or course pursued by virtue of eligibility provided by this paragraph, the Administrator shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance [may] *shall* be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph [only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective] *unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.* Any such determination shall be made in accordance with regulations which the Administrator shall prescribe.

(ii) Educational assistance provided a veteran for pursuit of a program described in clause (iii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph shall be provided at the rate determined under section 1691(b)(2) of this title.

(D) Educational assistance may not be provided by virtue of this paragraph after December 31, [1983] *1984*.

(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that——

(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before the date for which an educational assistance allowance is first payable under this chapter, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before the date of enactment of this sentence and who pursues a course of farm cooperative training, apprenticeship or other training on the job, the 10-year delimiting period shall run from the date of enactment of this sentence, if it is later than the date which would otherwise be applicable.

(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's 10-year period of eligibility for educational assistance, any period during which the veteran was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Veterans' Administration medical facility.

[(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.]

*　　*　　*　　*　　*　　*　　*

Subchapter III—Enrollment

*　　*　　*　　*　　*　　*　　*

§ 1673. Disapproval of enrollment in certain courses

(a)[(1)] The Administrator shall not approve the enrollment of an eligible veteran in—

[(A)]*(1)* any bartending course or personality development course;

[(B)]*(2)* any [course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;] *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)]*(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

[(D)]*(4)* any independent study program except one leading to a standard college degree.

[(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.]

(b) The Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V *except to the extent provided for in section 1691(c) of this title* any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.

* * * * * * *

Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

* * * * * * *

§ 1682. Computation of eductional assistance allowances

(a)(1) Except as provided in subsection (b), [or (c)] *(c), or (g)* of this section, or section, 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

* * * * * * *

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b)*(2)* of this section. If the entire training is to be pursued by independent study, entitlement shall be charged [at] *in accordance with the rate at which training is pursued, but in no event at more than* one-half of the full-time institutional rate. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.

CHAPTER 35—SURVIVIORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

* * * * * * *

Subchapter II—Eligibility and Entitlement

* * * * * * *

§ 1712. Periods of eligibility

(a) * * *

* * * * * * *

(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this chapter may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

(A) The date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.

(C) The date on which the Administrator determines that the spouse from whom eligibility is derived died of a service-connected disability.

(2) Notwithstanding the privisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section

1701(a)(1)(B), (C), or (D) of this chapter) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection,* such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (3)(B)(ii) of this subsection)* as the Administrator determines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence *because of such disability,* the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonalby feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(3)(A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, and eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

(ii) and extension of the appliable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Adminstrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable

such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to intitate or resume pursuit of a program of education with educational assistance under this chapter.

* * * * * * *

Subchapter III—Program of Education

* * * * * * *

§ 1723. Disapproval of enrollment in certain courses

(a) [(1)] The Administrator shall not approve the enrollment of an eligible person in—

[(A)] *(1)* any bartending course or personality development course;

[(B)] *(2)* any [course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;] *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)] *(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of the person's present or contemplated business or occupation; or

[(D)] *(4)* any independent study program except one leading to a standard college degree.

[(2) (A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in such institution.]

* * * * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * * * *

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section [1504,] *1508,* 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; *or*

(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under

section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution[; or].

[(6) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.]

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).

* * * * * * *

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) * * *

* * * * * * *

Discontinuance of Allowances

(b)(1) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provisions of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

(2) [Any] *Except as provided in paragraph (3) of this subsection, any* action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Administrator shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not

less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days and of the date on which the Administrator intends to take action under such subparagraph.

* * * * * * *

Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a)(1) * * *

* * * * * * *

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran or person concerned in the same manner as any other debt due the United States.

(2) If a veteran or person who has received a loan under this section dies or becomes permanently and totally disabled, then the Administrator shall discharge the veteran's or person's liability on such loan by repaying the amount owed on such loan.

(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. ⟦Such report shall include in maximum feasible detail—

⟦(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans;

⟦(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and

⟦(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution.⟧

* * * * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * * * *

SUBCHAPTER II—LOANS

1810. Purchase or construction of homes.

1811. Direct loans to veterans.
1815. Insurance of loans.
1816. Procedure on default.
1817. Release from liability under guaranty.
1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.
1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots.

* * * * * * *

Subchapter I—General

* * * * * * *

§ 1803. Basic provisions relating to loan guaranty

(a)(1) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title.

(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Veterans' Housing Act of 1970 is hereby restored and shall not expire until used.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Administrator may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter. In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1810(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Administrator before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used:

(A) to refinance indebtedness pursuant to clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran; **[**or**]**

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served**[**.**]***; or*

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * * * *

§ 1811. Direct loans to veterans

(a) * * *

* * * * * * *

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or **[**mobile**]** *manufactured* home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or 1819 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under sections 1000–1029 of title 7 or under sections 1471–1483 of title 42.

(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans or **[**mobile**]** *manufactured home* loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

* * * * * * *

Subchapter II—Loans

* * * * * * *

§ 1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for [one of the following] *the purpose or* purposes *specified in one of the following clauses*:

(A) To purchase a lot on which to place a [mobile] *manufactured* home already owned by the veteran.

(B) To purchase a single-wide [mobile] *manufactured* home.

(C) To purchase a single-wide [mobile] *manufactured* home and a lot on which to place such home.

(D) To purchase a double-wide [mobile] *manufactured* home.

(E) To purchase a double-wide [mobile] *manufactured* home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) (i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for [any of the purposes described in paragraph (1) of this subsection] *a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph (1) of this subsection or for the purposes specified in clause (G) of such paragraph* may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the [mobile] *manufactured* home.

(3) Any loan made for the purposes described in clause [(C) or (E)] *(C), (E), or (G)* of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the [mobile] *manufactured* home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same [mobile] *manufactured* home or [mobile-home] *manufactured-home* lot, or [mobile] *manufactured* home and [mobile-home] *manufactured-home* lot, as was the loan being refinanced and such [mobile] *manufactured* home (or a [mobile] *manufactured* home on such lot) must be owned and occupied by the veteran as such veteran's home;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

(v) the term of the loan may not exceed the original term of the loan being refinanced.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement under this section for the purchase of a [mobile] *manufactured* home unit shall preclude the use of remaining entitlement for the purchase of an additional [mobile] *manufactured* home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in [mobile] *manufactured* home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty under this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $20,000. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Adminstrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $20,000, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $20,000.

(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide [mobile] *manufactured* home; or

(ii) a single-wide [mobile] *manufactured* home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonabale reamortization of such loan.

(e) No loan shall be guaranteed under this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the [mobile] *manufactured* home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new [mobile] *manufactured* home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used [mobile] *manufactured* home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home;

(6) the [mobile] *manufactured* home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of [mobile] *manufactured* home loan financing for veterans under this section.

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made under this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a [mobile] *manufactured* home shall be guaranteed under this section unless the [mobile] *manufactured* home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a [mobile] *manufactured* home owned by a veteran shall be guaranted under this section unless the lot meets such standards prescribed for [mobile] *manufactured* home lots. Such standards shall be designed to encourage the maintenance and development of sites for [mobile] *manufactured* homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of [mobile] *manufactured* homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of [mobile] *manufactured* homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.

(i) The Administrator shall require the manufacturer to become a warrantor of any new [mobile] *manufactured* home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the [mobile] *manufactured* home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of [mobile] *manufactured* homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of [mobile] *manufactured* homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of [mobile] *manufactured* homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a [mobile] *manufactured* home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase [mobile] *manufactured* homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(l) The Administrator's annual report to Congress shall, beginning 12 months following the date of enactment of the Veterans' Housing Act of 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(m) The provisions of section 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making guaranteed [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans and holders of such loans.

* * * * * * *

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.

2001. Definitions.
2002. Purpose.
2002A. Assistant Secretary of Labor for Veterans' Employment.
[2003. Assignment of veterans' employment representative.]

2003. State and Assistant State Directors for Veterans' Employment.
2003A. Disabled veterans' outreach program.
2004. Employees of local offices.
2005. Cooperation of Federal agencies.
2006. Estimate of funds for administration; authorization of appropriations.
2007. Administrative controls; annual report.
2008. Cooperation and coordination with the Veterans' Administration.

* * * * * * *

§ 2002. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies *and regulations* shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment, established by section 2002A of this title, through a Veterans' Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, *with priority given to the needs of disabled veterans and veterans of the Vietnam era,* though existing programs, coordination and merger of programs and implementation of new programs.

§ 2002A. Assistant Secretary of Labor for Veterans' Employment

There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

[§ 2003. Assignment of veterans' employment representative

[The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative (and shall assign full-time clerical support to each such representative), and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans and eligible persons of the State veterans population, and such additional assistant veterans' employment representatives as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 of subchapter III of chapter 53 of such title, relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service system in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' and eligible presons' counseling and placement policies through the public employment service system and in cooperation with employment and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State. In cooperation with the public employment service system staff and the staffs of each such other program in the State, the veterans' employment representative and such representative's assistants shall—]

§2003. State and Assistant State Directors for Veterans' Employment

(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (A) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the

Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

(d) In cooperation with the staffs of the public employment service system and of each other program in the State described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—

(1) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;

(2) engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities;

(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(6) promote the participation of veterans in [Comprehensive Employment and training Act] *Federal employment and training* programs and monitor the implementation and operation of [Comprehensive Employment and Training Act] *such* programs to [assure] *ensure* that eligible veterans, disabled veterans, and veterans of the Vietnam era receive *such* special consideration [when required; and] *or priority in the provision of services as is required by law or regulation;*

(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons[.]*;*

(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

(11) cooperate with the directors of the veterans' assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

(12) in the case of disabled veterans, where requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.

§ 2003A. Disabled veterans' outreach program

(a)(1) The Secretary of Labor shall make available [to] *for use in* each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

(2) Funds provided [to] *for use in* a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialish shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Veitnam era is not avialable for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

(3) The Secretary shall also make available [to] *for use in* the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.

(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

(B) Services to other disabled veterans.

(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State, *except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does not exceed 80 per centum of such specialists stationed in all States.* Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section [621A] *612A* of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion, and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

(4) Provision of appropriate assistance to community-based groups and organizations and [prime sponsors under the Comprehensive Employment and Training Act] *appropriate grantees under other Federal employment and training programs* in providing services to such veterans.

(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the prupose of

developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with insitutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.

[(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.]

[(e)]*(d)* The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment. *In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.*

* * * * * * *

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary of Labor shall estimate the funds necessary for the proper and efficient administration of this chapter *and chapters 42 and 43 of this title.* Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. *Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section.* Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. *The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.*

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections, except with the approval of the Secretary of Labor, *upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment,* based on a demonstrated lack of need for such funds for such purposes.

§ 2007. Administrative controls; annual report

(a) * * *

* * * * * * *

(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service. The report shall include any determination by the Secretary under section 2004, 2006 or 2007(a), of this title and a statement of the reasons for such determination. *The report shall also include a report on activities carried out under section 2003A of this title.*

§ 2008. Cooperation and coordination with the Veterans' Administration

In carrying out the Secretary's responsibilities under this chapter, the Secretary of Labor shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

* * * * * * *

§ 2011. Definitions

As used in this chapter—

(1) The term "special disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of service-connected disability.

(2)(A) Subject to subparagraph (B) of this paragraph, the term "veteran of the Vietnam era" means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

(3) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term "eligible veteran" means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

[(5) The term "department or agency" means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5.**]**

(5) The terms "department or agency" and "department, agency, and instrumentality in the executive branch" each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.

§ 2012. Veterans' employmnet emphasis under Federal contracts

(a) * * *

* * * * * * *

(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.

* * * * * * *

Chapter 43—Veterans' Reemployment Rights

Sec.
2021. Right to reemployment of inducted persons; benefits protected.
2022. Enforcement procedures.
2023. Reemployment by the United States, territory, possession, or the District of Columbia.
2024. Rights of persons who enlist or are called to active duty; Reserves.
[2025. Assistance in obtaining reemployment.**]**
2025. Jurisdiction; assistance in obtaining reemployment.
2026. Prior rights for reemployment.

* * * * * * *

[§ 2025. Assistance in obtaining reemployment

[The Secretary of Labor, through the Office of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.]

§ 2025. Jurisiction; assistance in obtaining reemployment

(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

* * * * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * * * *

§ 3102. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payments or overpayments or interest thereon of any benefits under any of the laws administered by the Veterans' Administration whenever the Administrator determines that recovery would be against equity and good conscience, if an application for relief is made within [two years] *one hundred and eighty days* from the date of notification of the indebtedness by the Administrator to the payee, *or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date.*

* * * * * * *

§ 3103A. Minimum active-duty service requirement

(a) * * *

* * * * * * *

(c)(1) Except as provided in paragraph (2) of this subsection, no dependent or survivor of a person as to whom subsection (b) of this section requires the denial of benefits shall, by reason of such person's period of active duty, be provided with any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection does not apply to benefits under chapters 19 and 37 of this title.

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) twenty-four months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.

[(d)] *(e)* For the purposes of this section, the term "benefit" includes a right or privilege *(including a right to special consideration, preference, priority, or similar advantage),* but does not include a refund of a participant's contributions to the educational benefits program provided by chapter 32 of this title.

* * * * * * *

(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.

* * * * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND CILIARY FACILITIES; PROCUREMENT AND SUPPLY

* * * * * * *

Subchapter I—Acquisition and Operation of Medical Facilities

* * * * * * *

§ 5010. Operation of medical facilities

(a)(1) * * *

* * * * * * *

(b) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendations of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a)(5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

(II) such contract would not result in a reduction in the quantity or quality of health-care services provided to eligi-

ble veterans by the Veterans' Administration at such facility.

(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.

* * * * * * *

Public Law 90-83

* * * * * * *

[SEC. 6. (a) The Secretary of Labor shall act on any application for an Exemplary Rehabilitation Certificate received under this section from any person who was discharged or dismissed under conditions other than honorable, or who received a general discharge, at least three years before the date of receipt of such application.

[(b) In the case of any person discharged or dismissed from an armed force under conditions other than honorable before or after the enactment of this section, the Secretary of Labor may consider an application for, and issue to that person, an Exemplary Rehabilitation Certificate dated as of the date of issuance, if it is established to his satisfaction that such person has rehabilitated himself, that his character is good, and that his conduct, activities, and habits since he was so discharged or dismissed have been exemplary for a reasonable period of time, but not less than three years. The Secretary of Labor shall supply to the Secretary of Defense a copy of each Exemplary Rehabilitation Certificate which is issued, and the Secretary of Defense shall place it in the military personnel record of the individual to whom the certificate is issued.

[(c) For the purposes of subsection (b), oral and written evidence, or both, may be used, including—

[(1) a notarized statement from the chief law enforcement officer of the town, city, or county in which the applicant resides, attesting to his general reputation so far as police and court records are concerned;

[(2) a notarized statement from his employer, if employed, giving the employer's address, and attesting to the applicant's general reputation and employment record;

[(3) notarized statements from not less than five persons, attesting that they have personally known him for at least three years as a person of good reputation and exemplary conduct, and the extent of personal contact they have had with him; and

[(4) such independent investigations as the Secretary of Labor may make.

Any person making application under this section may appear in person or by counsel before the Secretary of Labor.

[(d) No benefits under any laws of the United States (including but not limited to those relating to pensions, compensation, hospitalization, military pay and allowances, education, loan guarantees, retired pay, or other benefits based on military service) shall accrue to any person to whom an Exemplary Rehabilitation Certificate is issued under subsection (b) unless he would be entitled to those benefits under his original discharge or dismissal.

[(e) The Secretary of Labor shall require that the national system of public employment offices established under the Act of June 6, 1933, chapter 49, as amended (29 U.S.C. 49 et seq.), accord to any person who has been discharged or dismissed under conditions other than honorable but who has been issued an Exemplary Rehabilitation Certificate special counseling and job development assistance.

[(f) The Secretary of Labor shall report to Congress not later than January 15 of each year the number of cases reviewed by him under this section and the number of Exemplary Rehabilitation Certificates issued.

[(g) In carrying out the provisions of this section the Secretary of Labor is authorized to (1) issue regulations; (2) delegate his authority; (3) utilize the services of the Civil Service Commission for making such investigations as may be mutually agreeable.]

* * * * * * *

Public Law 97-306
97th Congress

An Act

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children, and to modify and improve the educational assistance programs administered by the Veterans' Administration and the veterans' employment programs administered by the Department of Labor; and for other purposes.

Oct. 14, 1982
[H.R. 6782]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Compensation, Education, and Employment Amendments of 1982.
38 USC 101 note.

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

95 Stat. 1026.
38 USC 314.

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262".

38 USC 314 note.

38 USC note prec. 101.

38 USC 301 *et seq.*

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. Any such adjustment shall be made in conformance with the methodology used in determining the amounts of the increases under subsection (a) and specifically shall include the rounding down to the nearest dollar of each rate as so adjusted.

ADDITIONAL COMPENSATION FOR DEPENDENTS

95 Stat. 1027.
38 USC 315.

SEC. 102. Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:

"(A) has a spouse but no child, $74;

"(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

"(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;";

(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$60";

(4) by striking out "$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$134"; and

(5) by striking out "$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

95 Stat. 1027.
38 USC 362.

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

95 Stat. 1028.
38 USC 411.

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	459	O-1	563
E-3	470	O-2	582
E-4	500	O-3	622
E-5	514	O-4	658
E-6	526	O-5	726
E-7	552	O-6	817
E-8	582	O-7	884
E-9	[1] 608	O-8	969
W-1	563	O-9	1,041
W-2	586	O-10	[2] 1,139
W-3	603		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222."

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

95 Stat. 1029.
38 USC 413.

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

95 Stat. 1029.
38 USC 414.

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

REPEAL OF EARLIER RATE ADJUSTMENT

SEC. 107. Section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253) is repealed. Ante, p. 803.

38 USC 314 note.

Sec. 108. The amendments made by this part shall take effect on October 1, 1982.

Part B—Program Improvements

COMPENSATION RATE INCREASES FOR CERTAIN BLINDED VETERANS

38 USC 314.

Sec. 111. (a) Section 314(n) is amended by inserting "or has suffered blindness without light perception in both eyes," after "anatomical loss of both eyes,".

(b) Section 314(p) is amended by inserting "or service-connected anatomical loss or loss of use of one hand or one foot" after "in one ear".

Effective date.
38 USC 314 note.

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO CERTAIN SURVIVORS' BENEFITS

38 USC 410.

Sec. 112. (a) Section 410(b)(1) is amended by inserting "or entitled to receive" after "was in receipt of".

Effective date.
38 USC 410 note.

(b)(1) The amendment made by subsection (a) shall take effect on October 1, 1982.

38 USC 401 *et seq.*

(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) had taken effect on October 1, 1978.

(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) had taken effect on October 1, 1978.

ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS DISABLED DURING CERTAIN TRAINING

38 USC 101.

Sec. 113. (a) Section 101(22) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

> "(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10; and".

10 USC 2101 *et seq.*
Repeal.
38 USC 403.

(b)(1) Section 403 is repealed.

(2) The table of sections at the beginning of chapter 13 is amended by striking out the item relating to such section.

5 USC 8140 note.
5 USC 8101.

(c) Notwithstanding section 8140 of title 5, United States Code, subchapter I of chapter 81 of such title does not apply in the case of a disability suffered by a member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force that is compensable under chapter 11 of title 38, United States Code, or a death suffered by such a member for which dependency and indemnity compensation is payable under chapter 13 of such title.

38 USC 301 *et seq.*
38 USC 401 *et seq.*

(d) The amendments made by subsections (a) and (b) and the provisions of subsection (c) shall apply only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982.

Effective date.
38 USC 101 note.

TITLE II—EDUCATIONAL ASSISTANCE

VETERANS' COUNSELING AND OUTREACH SERVICES

SEC. 201. (a) Section 243 is amended to read as follows:

38 USC 243.

"§ 243. Outstationing of counseling and outreach personnel

"The Administrator may station employees of the Veterans' Administration at locations other than Veterans' Administration offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.".

(b) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"243. Outstationing of counseling and outreach personnel.".

REPEAL OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL SCHOOLS

SEC. 202. (a) Section 1673(a) is amended—

38 USC 1673.

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

(5) by striking out paragraph (2).

(b) Section 1723(a) is amended—

38 USC 1723.

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

(5) by striking out paragraph (2).

(c) The amendments made by this section shall take effect on October 1, 1982.

Effective date.
38 USC 1673 note.

TECHNICAL AMENDMENT RELATING TO 85-15 RULE

SEC. 203. (a) Section 1673(d) is amended—

38 USC 1673.

(1) by striking out "The Administrator" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Administrator";

(2) by striking out "(other than" and all that follows through "of this title)"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection—

"(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

"(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

"(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.".

38 USC 1691. (b) Section 1691(c) is amended by striking out "section 1673(d)" and inserting in lieu thereof "section 1673(d)(1)".

CHARGE TO ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY PROGRAMS

38 USC 1682. Sec. 204. Section 1682 is amended—

(1) by striking out "or (c)" in subsection (a)(1) and inserting in lieu thereof "(c), or (g)"; and

(2) by striking out "entitlement shall be charged at one-half of the full-time institutional rate" in subsection (e) and inserting in lieu thereof "the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis".

MODIFICATION OF RESTRICTION ON ALLOWANCES FOR INCARCERATED PERSONS

38 USC 1508. Sec. 205. (a) Section 1508(g)(2) is amended—

(1) by inserting "not" after "shall"; and

(2) by striking out all after "felony" and inserting in lieu thereof a period.

38 USC 1682. (b) Section 1682(g) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program."; and

(2) in paragraph (2)—

(A) by inserting "not" after "shall"; and

(B) by striking out all after "felony" and inserting in lieu thereof a period.

38 USC 1780. (c) Section 1780(a) is amended—

(1) by striking out "section 1504" and inserting in lieu thereof "section 1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6).

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION AUTHORITY

95 Stat. 1054.
38 USC 1662.

SEC. 206. (a) Section 1662(a)(3) is amended—

(1) in the first sentence of subparagraph (C)(i)—

(A) by striking out "may" and inserting in lieu thereof "shall"; and

(B) by striking out "only if" and all that follows in such sentence and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes."; and

(2) by striking out "December 31, 1983" in subparagraph (D) and inserting in lieu thereof "December 31, 1984".

Publication in Federal Register.
38 USC 1662 note.

(b)(1) Not later than 30 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed 30 days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a).

Publication in Federal Register.

(2) Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i).

Effective date.
38 USC 1662 note.

(c) The amendments made by subsection (a) shall take effect as of January 1, 1982.

AUTHORITY TO SUSPEND EDUCATIONAL ASSISTANCE IN CERTAIN CASES

38 USC 1790.

SEC. 207. Section 1790(b) is amended—

(1) by striking out "Any" in paragraph (2) and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

"(I) the Administrator provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

"(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Administrator determines is reasonable and appropriate) take corrective action; and [illegible] the Administrator, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Administrator's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Administrator has determined is reasonable and appropriate), and of the date on which the Administrator intends to take action under such subparagraph.".

MODIFICATION OF REPORTING REQUIREMENT ON DEFAULT RATES UNDER EDUCATIONAL LOAN PROGRAM

38 USC 1798. SEC. 208. The second sentence of section 1798(e)(3) is amended—

(1) by striking out "in maximum feasible detail";

(2) by inserting "and" at the end of clause (A); and

(3) by striking out clauses (B) and (C) and inserting in lieu thereof the following:

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) other loans made under this section.".

ADMINISTRATIVE IMPLEMENTATION OF CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAMS

38 USC 1622. SEC. 209. Section 1622 is amended by adding at the end the following new subsection:

"(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.". 10 USC 2141 *et seq.*

ADJUSTMENT OF COMPUTATION OF BENEFIT PAYMENT RATE FOR PARTICIPANTS MAKING LUMP-SUM CONTRIBUTIONS UNDER CHAPTER 32 PROGRAM

SEC. 210. Section 1622(d) is amended by striking out "$75" and inserting in lieu thereof "$100".

TITLE III—EMPLOYMENT ASSISTANCE

CONGRESSIONAL FINDINGS

SEC. 301. (a) Chapter 41 is amended by inserting after the table of sections the following new section:

38 USC 2000. **"§ 2000. Findings**

"The Congress makes the following findings:

"(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

"(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment.".

(b)(1) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2001 the following new item:

"2000. Findings.".

(2) The item relating to chapter 41 in the table of chapters preceding part I and in the table of chapters at the beginning of part III is amended by striking out "2001" and inserting in lieu thereof "2000".

PURPOSE OF JOBS TRAINING PROGRAMS

38 USC 2002.

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era" after "opportunities".

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

38 USC 2002A.

38 USC 2021 *et seq.*

SEC. 303. Section 2002A is amended by adding at the end the following new sentence: "The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment.".

STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT

38 USC 2003.

SEC. 304. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the State Director for Veterans' Employment, and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the State Director for Veterans' Employment to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

5 USC 5101 *et seq.*, 5331.

"(b)(1) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment (A) shall be an eligible veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (B) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

"(2) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

"(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the State Director for Veterans' Employment and Assistant State Directors for Veterans' Employment shall—".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and by adding at the end the following new clauses:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

38 USC 1501 *et seq.*

"(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans.".

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 305. (a) Subsection (a) of section 2003A is amended— 38 USC 2003A.

(1) by inserting a comma and "acting through the Assistant Secretary for Veterans' Employment," in paragraph (1) after "Secretary of Labor";

(2) by inserting a comma and "acting through the Assistant Secretary of Labor for Veterans' Employment," in paragraph (3) after "Secretary";

(3) by striking out "available to" in paragraphs (1) and (3) and inserting in lieu thereof "available for use in";

(4) by striking out "provided to" in paragraph (2) and inserting in lieu thereof "provided for use in"; and

(5) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting after the first sentence the following new sentence: "The Secretary, after consulting the Administrator and the State Director for Veterans' Employment assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent."; and Waiver. *Ante*, p. 1437.

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in clause (4) and inserting in lieu thereof "appropriate grantees under other Federal and federally funded employment and training programs"; and

(2) by adding at the end the following new clause:

"(8) Development of outreach programs in cooperation with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.". 38 USC 1501 *et seq.*

(d) Section 2003A is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d) and adding at the end the following new sentence: "The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

38 USC 2006.
38 USC 2011 *et seq.*, 2021 *et seq.*

SEC. 306. (a) Subsection (a) of section 2006 is amended—

(1) by inserting "and chapters 42 and 43 of this title" after "of this chapter" in the first sentence; and

(2) by adding at the end the following new sentences: "Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section. Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

38 USC 2007.

SEC. 307. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

NATIONAL EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS

SEC. 308. (a) Chapter 41 is amended by adding at the end the following new sections:

38 USC 2009.

"§ 2009. National veterans' employment and training programs

"(a) The Secretary of Labor shall—

"(1) administer through the Assistant Secretary of Labor for Veterans' Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;

"(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title; and

38 USC 1501 *et seq.*

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

"(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provision of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans' employment as the Secretary considers appropriate.

Report to congressional committees.

"§ 2010. Secretary of Labor's Committee on Veterans' Employment

38 USC 2010.

"(a) There is established within the Department of Labor an advisory committee to be known as the 'Secretary's Committee on Veterans' Employment'. The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.

Establishment.

"(b) The committee shall be chaired by the Secretary of Labor. The Assistant Secretary of Labor for Veterans' Employment shall serve as vice chairman of the committee. The committee shall include—

Chairman.

Membership.

"(1) representatives of—
"(A) the Administrator;
"(B) the Secretary of Defense;
"(C) the Secretary of Health and Human Services;
"(D) the Director of the Office of Personnel Management;
"(E) the Chairman of the Equal Employment Opportunity Commission; and
"(F) the Administrator of the Small Business Administration; and
"(2) a representative of each of the chartered veterans' organizations having a national employment program.

"(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.".

Compensation.

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2009. National veterans' employment and training programs.
"2010. Secretary of Labor's Committee on Veterans' Employment.".

PERSONS ELIGIBLE FOR CHAPTER 42 EMPLOYMENT AND TRAINING PROGRAMS

SEC. 309. Section 2011 is amended—

38 USC 2011.

(1) by inserting "(or who but for the receipt of military retired pay would be entitled to compensation)" in clauses (1) and (3) after "compensation"; and

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "and the United States Postal Service and the Postal Rate Commission, and the term 'department, agency, or instrumentality in the executive branch' includes the United States Postal Service and the Postal Rate Commission.".

Definition.

REPORTS ON VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS

38 USC 2012.

SEC. 310. (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary shall prescribe, report at least annually to the Secretary on—

"(A) the number of employees in the work force of such contractor, by job category and hiring location, who are veterans of the Vietnam era or special disabled veterans; and

"(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are veterans of the Vietnam era or special disabled veterans.

Regulations. 38 USC 2012 note.

"(2) The Secretary shall ensure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to any requirement for the contractor to make any other report to the Secretary.".

(b) Within 90 days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations under subsection (d) of section 2012 of title 38, United States Code, as added by the amendment made by subsection (a).

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 311. Section 6 of Public Law 90-83, approved September 11, 1967 (29 U.S.C. 601-607), is repealed.

TITLE IV—MISCELLANEOUS PROVISIONS

REMOVAL OF TIME RESTRICTION FOR FILING AN INSURANCE CLAIM; PROHIBITION OF INSURANCE PROCEEDS ESCHEATING TO A STATE

38 USC 770.

SEC. 401. (a) Section 770 is amended—

(1) by striking out the second sentence of subsection (c); and

(2) by adding at the end the following new subsection:

"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.".

Effective date. 38 USC 770 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

BURIAL FLAGS

38 USC 901.

SEC. 402. (a) Section 901 is amended by adding at the end the following new subsection:

"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.".

(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

Effective date.
38 USC 901 note.

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS WHOSE REMAINS ARE UNCLAIMED

38 USC 902.

SEC. 403. Section 902(a) is amended by striking out "When a veteran" and all that follows through "the Administrator," and inserting in lieu thereof the following: "In the case of a deceased veteran—

"(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or

"(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Administrator determines—

"(A) that there is no next of kin or other person claiming the body of the deceased veteran, and

"(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Administrator,".

(b) The amendment made by subsection (a) shall apply with respect to burial and funeral expenses incurred after September 30, 1982.

Effective date.
38 USC 902 note.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR CERTAIN VETERANS WHO DIE IN CONTRACT NURSING HOME FACILITIES

38 USC 903.

SEC. 404. (a) Section 903(a) is amended—

(1) by striking out "Where death occurs in a Veterans' Administration facility" and inserting in lieu thereof "When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)"; and

(2) by inserting "or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death" after "of this title".

(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

Effective date.
38 USC 903 note.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

24 USC 271-276 note.

SEC. 405. Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of the superintendent of a national cemetery under the jurisdiction of the Secretary of the Army.

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED-HOME LOTS; CHANGE IN NOMENCLATURE

38 USC 1819.

SEC. 406. (a) Section 1819(a) is amended—

(1) in paragraph (1), by adding at the end the following new clause:

"(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.";

(2) in paragraph (2), by inserting "(other than the refinancing under clause (F) of such paragraph of an existing loan)" after "subsection";

(3) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and

(4) by adding at the end the following new paragraph:

"(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection—

"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

"(ii) the amount of the loan may not exceed an amount equal to the sum of—

"(I) the purchase price of the lot,

"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

"(III) the balance of the loan being refinanced, and

Infra.

"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

"(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

38 USC 1803.

(b) Section 1803(c)(3) is amended—

(1) by striking out "used:" in the matter preceding clause (1) and inserting in lieu thereof "used—";

(2) by striking out "or" at the end of clause (C);

(3) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and

(4) by adding at the end the following new clause:

Supra.

"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.".

38 USC 1811.

(c)(1) Section 1811 is amended by striking out "mobile home" in subsections (c)(1) and (d)(1) and inserting in lieu thereof "manufactured home".

38 USC 1819.

(2) Section 1819 is further amended—

(A) by striking out "mobile" each place it appears and inserting in lieu thereof "manufactured";

(B) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(C) by amending the section heading to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The item relating to such section in the table of sections at the beginning of chapter 37 is amended to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF WAIVER OF OVERPAYMENT

38 USC 3102.

SEC. 407. (a) Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "180 days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

Effective date.
38 USC 3102 note.

(b) The amendments made by subsection (a) shall apply only with respect to notifications of indebtedness that are made by the Administrator of Veterans' Affairs after March 31, 1983.

MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT

95 Stat. 1035.
38 USC 3103A.

SEC. 408. (a) Section 3103A is amended—

(1) by striking out "on or after the date of the enactment of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981" in subsection (b)(2)(B) and inserting in lieu thereof "after October 16, 1981,";

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection (d):

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) 24 months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Veterans' Administration), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

10 USC 1171.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

42 USC 1305.

"(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title."; and

5 USC 2108.

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

38 USC 3103A note.

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a)(2), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person was discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

Repeal.

(c)(1) Section 977 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 977.

38 USC 3103A note.

(d) Section 3103A of title 38, United States Code, as amended by subsection (a), is the law with respect to the matters stated in such section and applies, in accordance with its terms, with respect to benefits under Federal law, regardless of the particular title of the United States Code or other law under which any such benefit is provided or the department, agency, or instrumentality which administers any such benefit.

LIMITATIONS ON CONTRACTING OUT ACTIVITIES AT VETERANS' ADMINISTRATION HEALTH-CARE FACILITIES

38 USC 5010 note.

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration—

(1) shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) shall operate such system through cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

38 USC 5010.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (3) of this subsection—

Limitation.

"(A) a contract may not be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction (hereinafter in this subsection referred to as a 'Veterans' Administration health-care facility') would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the results of a study described in paragraph (4) of this subsection, may, in the exercise of the Administrator's sole discretion but subject to paragraph (2) of this subsection, enter into a contract as a result of which the activity would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government.

"(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if the Administrator determines—

"(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

"(B) that the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

"(3) The provisions of paragraph (1) of this subsection do not apply—

38 USC 601 *et seq.*

38 USC 5011, *ante* p. 74, 5053; 31 USC 1535.

"(A) to a contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or under section 1535 of title 31; or

"(B) to a contract under section 213 or 4117 of this title if the Chief Medical Director determines that such contract is necessary in order to provide services to eligible veterans at a Veterans' Administration health-care facility that could not otherwise be provided at such facility.

Study.

"(4) A study referred to in paragraph (1)(B) of this subsection is a study that—

"(A) compares the cost of performing an activity at a Veterans' Administration health-care facility through Federal employees with the cost of performing such activity through a contractor of the Government;

"(B) is based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Federal employees;

"(C) with respect to the costs of performance of such activity through Federal employees, is based (to the maximum extent feasible) on actual cost factors of the Veterans' Administration for pay and retirement and other fringe benefits for the Federal employees who perform the activity; and

"(D) takes into account (i) the costs to the Government (including severance pay) that would result from the separation of employees whose Federal employment may be terminated as a result of the Administrator entering into a contract described in paragraph (1)(B) of this subsection, and (ii) all costs to the Government associated with the contracting process.

Notice, submittal to congressional committees.

"(5) Prior to conducting a study described in paragraph (4) of this subsection, the Administrator shall (in a timely manner) submit to the appropriate committees of the Congress written notice of a decision to study the activity involved for possible performance by a contractor.

Report.

"(6) If, after completion of a study described in paragraph (4) of this subsection, a decision is made to convert performance of the activity involved to contractor performance, the Administrator shall promptly submit to the appropriate committees of the Congress written notice of such decision and a report with respect to such conversion. Each such report shall include—

"(A) a summary of the study described in paragraph (4) of this subsection with respect to such contract;

"(B) a certification that the study itself is available to such committees and that the results of the study meet the requirements of paragraph (2)(A) of this subsection;

"(C) a certification that the requirements of paragraph (2)(B) of this subsection would be met with respect to such contract and a summary of the information that supports such certification;

"(D) if more than 25 jobs are affected, information showing the potential economic impact on the Federal employees affected and the potential economic impact on the local community and the Government of contracting for performance of such activity; and

"(E) information showing the amount of the bid accepted for a contract for the performance of the activity and the cost of performance of such activity by Federal employees, together with the total estimated costs which the Government will incur because of the contract.

Report to Congress.

"(7) Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Administrator shall submit a written report to Congress describing the extent to which activities at Veterans' Administration health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.".

Approved October 14, 1982.

LEGISLATIVE HISTORY—H.R. 6782 (S. 2913):

HOUSE REPORT No. 97-660 (Comm. on Veterans' Affairs).
SENATE REPORT No. 97-550 accompanying S. 2913 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 128 (1982):
  July 27, considered and passed House.
  Sept. 24, considered and passed Senate, amended.
  Sept. 28, House concurred in Senate amendments with amendments.
  Sept. 29, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 41:
Oct. 14, Presidential statement.